

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Applicants

**APPLICATION RECORD
(Re: Initial CCAA Order)
Returnable September 30, 2013**

September 29, 2013

Norton Rose Fulbright Canada LLP
Royal Bank Plaza, South Tower
Suite 3800, 200 Bay Street, P.O. Box 84
Toronto, Ontario M5J 2Z4 CANADA

Orestes Pasparakis LSUC#: 36851T
Tel: (416) 216-4815
Email:
Orestes.Pasparakis@nortonrosefulbright.com

Robert Frank LSUC#: 35456F
Tel: (416) 202-6741
Email: Robert.Frank@nortonrosefulbright.com

Virginie Gauthier LSUC#: 41097D
Tel: (416) 216-4853
Email:
Virginie.Gauthier@nortonrosefulbright.com

Evan Cobb LSUC#: 55787N
Tel: (416) 216-1929
Email: Evan.Cobb@nortonrosefulbright.com

Fax: (416) 216-3930

Lawyers for the Applicants

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Applicants

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Tab 1

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INC., AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Applicants

NOTICE OF APPLICATION

TO THE PARTIES HEREIN:

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicants. The claim made by the Applicants appears on the following page.

THIS APPLICATION will come on for a hearing before a judge presiding over the Commercial List at 330 University Avenue, Toronto, Ontario on September 30, 2013, at 10:00am or as soon after that time as the matter can be heard.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but not later than 2:00 pm on the day before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date September , 2013

Issued by _____
Local registrar

Address of 330 University Avenue
court office 7th Floor
Toronto, ON M5J 1R7

TO: GOODMAN'S LLP
Bay Adelaide Centre
Suite 3400
333 Bay Street
Toronto, Ontario M5H 2S7

Robert Chadwick
Tel: (416) 597-4285
Email: rchadwick@goodmans.ca

Brendan O'Neill
Tel: (416) 849-6017
Email: boneill@goodmans.ca

Fred Myers
Tel: (416) 597-5923
Email: fmyers@goodmans.ca

Fax: (416) 979-1234

Lawyers for the Ad Hoc Committee, the Bridge Note Lenders and the DIP
Lenders

AND TO: BELLMORE & MOORE
 Suite 1600
 393 University Avenue
 Toronto, Ontario M5G 1E6

David C. Moore
 Tel: (416) 581-1818 Ext. 222
 Fax: (416) 581-1279
 Email: david@bellmore.ca

AND TO: FASKEN MARTINEAU DUMOULIN LLP
 333 Bay Street, Suite 2400
 Bay Adelaide Centre, Box 20
 Toronto ON M5H 2T6

Stuart Brotman
 Tel: (416) 865-5419
 Fax: (416) 364-7813
 Email: sbrotman@fasken.com

Lawyers for Catalyst Capital Group Inc.

AND TO: MCCARTHY TETRAULT LLP
 Box 48, Suite 5300
 66 Wellington Street West
 Toronto Dominion Bank Tower
 Toronto, Ontario M5K 1E6

James D. Gage
 Tel: (416) 601-7539
 Fax: (416) 868-0673
 Email: jgage@mccarthy.ca

Lawyer for QCP CW S.A.R.L.

AND TO: RUETER SCARGALL BENNETT LLP
 Suite 2200
 250 Yonge Street
 PO Box 4
 Toronto, Ontario M5B 2L7

Janice Wright
 Tel: (416) 597-5418
 Fax: (416) 869-3411
 Email: janice.wright@rslawyers.com

Lawyer for Equity Financial Trust Company,
 as trustee and collateral agent under the First Lien Notes,
 the Unsecured Senior Notes, the Bridge Notes and the DIP NPA

APPLICATION

1. The Applicants also (referred to herein as the "**Mobilicity Group**"), Data & Audio-Visual Enterprises Holdings Inc. ("**Holdings**"), Data & Audio-Visual Enterprises Wireless Inc. ("**Wireless**") and 8440522 Canada Inc. ("**844**") make application for :

- (a) an Initial Order substantially in the form attached to the Application Record (the "**Initial Order**"), among other things:
 - (i) abridging the time for service of this Notice of Application and dispensing with service on any person other than those served;
 - (ii) declaring that the Applicants are parties to which the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, (the "**CCAA**") applies;
 - (iii) appointing Ernst & Young Inc. ("**EY**") as monitor of the Applicants in these proceedings (in such capacity, the "**Monitor**");
 - (iv) staying all proceedings and remedies taken or that might be taken in respect of the Applicants, their directors and officers or any of their property;
 - (v) staying certain proceedings and remedies taken or that might be taken in respect of the DIP Lenders, the holders of Bridge Notes, and Equity Financial Trust Company (in its capacity as Trustee and/or Collateral Agent (in such capacity, the "**Trustee**") under the DIP Financing (as defined below), the 9.5% first lien senior secured notes (the "**First Lien Notes**") and the 15.5% second lien secured notes (the "**Bridge Notes**"), as further described in the Initial Order;
 - (vi) authorizing the Applicants to carry on business in a manner consistent with the preservation of their property and to make certain payments in connection with their business and the proceedings taken hereunder, including payment and

performance of certain obligations arising prior to the date of the Initial Order;

- (vii) authorizing the Applicants to file with this Court a plan of compromise or arrangement, subject to the terms of the Initial Order;
- (viii) authorizing the Applicants to enter into, and borrow under, the DIP Loan Agreement (as defined below) in accordance with the terms thereof;
- (ix) authorizing the Applicants to continue to accumulate certain security deposits in favour of its credit card payment services provider;
- (x) granting the following charges over the property of the Applicants, such charges to rank ahead of all existing security interest of any person, except for liens securing the obligations under the First Lien Notes and the indenture governing the First Lien Notes (the **"First Lien Notes Indenture"**) and any security interest having priority senior to those liens, and more particularly bearing the priority set out in the draft Initial Order attached to the Application Record:
 - (A) a charge in favour of the Applicants' counsel, the Monitor and the Monitor's counsel, counsel to the DIP Lenders (as defined below), counsel to the ad hoc committee of Mobilicity noteholders, counsel to any board of directors of the Applicants, the Financial Advisors (as defined below) and the Chief Restructuring Officer (as defined below) in the maximum amount of \$10 million to secure payment of their fees and disbursements incurred in connection with this proceeding, including services rendered both before and after the commencement of the CCAA proceedings (the **"Administration Charge"**);

- (B) a charge in favour of the lenders under the DIP Loan Agreement (as defined below); and
- (C) a charge to protect the directors and officers of the Applicants from certain liabilities in the maximum amount of \$550,000 (the "**Directors' Charge**");
- (D) a charge in favour of certain Key Employees and Key Executives (each as defined below) to secure specified obligations that may become owing to those persons, in the maximum aggregate amount of \$600,000 (the "**KERP Charge**");
- (xi) approving the engagement letters entered into between certain of the Applicants and each of the Chief Restructuring Officer (as defined below) and the Financial Advisors (as defined below); and
- (xii) sealing the confidential exhibits to the Affidavit of William E. Aziz, sworn September 29, 2013;
- (b) such further and other relief as this Honourable Court may deem just.

2. The grounds for the application are:

The Applicants are parties to which the CCAA applies

- (a) The Mobilicity Group carries on business as a Canadian wireless telecommunications carrier from their head office located in Vaughan, Ontario;
- (b) As at July 31, 2013, the Mobilicity Group had liabilities totalling approximately \$465 million and had accumulated a net deficit of \$431,807,958;
- (c) The aggregate value of the Mobilicity Group's property is not, at a fair valuation, sufficient to enable payment of its obligations that are due or accruing due;

- (d) The Mobilicity Group requires interim funding to continue its operations;

Stay of Proceedings

- (e) CCAA protection will allow the Mobilicity Group the necessary time and financing to focus its efforts and resources and move forward with a proposed sale, which the Mobilicity Group believes is the most beneficial course of action at this time;
- (f) The stay of proceedings proposed also extends to proceedings against or in respect of the DIP Lenders, the holders of Bridge Notes and the Trustee to the limited extent that those proceedings relate to the DIP Lenders' or the Bridge Note holders' lending arrangements with the Applicants;
- (g) The holders of the Bridge Notes and the Trustee are currently parties to certain litigation solely due to their lending arrangements with the Applicants and any continuation of that litigation against the holders of the Bridge Notes and the Trustee would distract from the goals of these proceedings and also result in unwarranted expenditure of resources by the holders of the Bridge Notes and the Trustee, each of which are indemnified in a customary manner by the Applicants for these types of expenditures;

Payment and performance of pre-filing obligations

- (h) The Mobilicity Group dealer network consists of over two hundred dealers (the "Dealers") operated independently from the Mobilicity Group that are compensated for sales on a delayed commission;
- (i) In the event that these dealers are not paid their pre-filing commissions, many of them will likely cease to have the necessary liquidity to continue to operate;
- (j) The Mobilicity Group operates on a "pay in advance" billing system which provides set monthly plans for its approximately 194,000 subscribers;

- (k) It is not unreasonable to expect that customers would begin to switch to other wireless service providers if the Mobilicity Group ceased to honour pre-filing contracts for which payment has already been made;

DIP Financing

- (l) The Mobilicity Group engaged its Financial Advisors to evaluate debtor in possession financing ("**DIP Financing**") options that were presented to the Mobilicity Group and concluded, with the assistance of its legal advisors and Financial Advisors, that the best proposal available in the circumstances was provided by the holders of the Bridge Notes (in such capacity, the "**DIP Lenders**") under a DIP Note Purchase and Guarantee Agreement (the "**DIP Loan Agreement**");
- (m) The DIP Financing has the support of major creditor groups;
- (n) The Proposed Monitor supports the DIP Financing;
- (o) The Mobilicity Group is unaware of any secured creditors other than those who have received notice of this Application, who are likely to be affected by the charge securing the DIP Financing;

Other Charges

- (p) Notice has been given to secured creditors likely to be affected by the charge securing the DIP Financing, as well as the Administration Charge, the Directors' Charge and the KERP Charge (together with the Administration Charge, the "**Other Charges**");
- (q) The Mobilicity Group is unaware of any secured creditors other than those who have received notice of this Application, who are likely to be affected by the Other Charges;
- (r) The Mobilicity Group worked with the proposed Monitor in determining the proposed quantum of the Directors' Charge and the Administration Charge and believes the Directors' Charge and the Administration Charge are reasonable in the circumstances;

- (s) The Applicants and the proposed Monitor believe that the beneficiaries of the Administration Charge have played and will continue to play a necessary and integral role in the restructuring and marketing activities of the Applicants;
- (t) The Mobilicity Group requires the continued participation of its directors and officers;
- (u) While the directors' and officers' Insurance is available, the directors and officers of the Mobilicity Group cannot be certain that the insurance providers will not seek to deny coverage on the basis that the directors' and officers' insurance does not cover a particular claim or that coverage limits have been exhausted;
- (v) The Mobilicity Group has identified key employees who are particularly crucial to the restructuring and the current sale effort;
- (w) The Mobilicity Group has developed a retention plan for the key employees;
- (x) The Mobilicity Group believes that the key employees should have the benefit of the KERP Charge to secure certain specified retention payment obligations that may become owing to those parties;

Financial Advisors and Chief Restructuring Officer

- (y) In July 2012, the Mobilicity Group engaged National Bank and Canaccord Genuity (together, the "**Financial Advisors**");
- (z) BlueTree Advisors II Inc. (as "**Chief Restructuring Officer**") was engaged in April of 2013 to provide services necessary assistance in dealing with restructuring matters;
- (aa) The Financial Advisors' and the Chief Restructuring Officer's background knowledge is necessary for the ongoing review of strategic alternatives for the Applicants, particularly given the highly specialized industry in which the Applicants operate;

- (bb) The Financial Advisors and the Chief Restructuring Officer have played and will continue to play a significant role in the Applicants' current sale effort, as well as in the negotiation or evaluation of any other restructuring transaction that may become available to the Applicants;
- (cc) The proposed Monitor supports the continued engagement of the Financial Advisors and the Chief Restructuring Officer and believes that the fees payable to the Financial Advisors and the Chief Restructuring Officer are reasonable;

Sealing

- (dd) The information subject to the sealing request is commercially sensitive information, and in some cases private personal information, which if disclosed would be detrimental to the Financial Advisors' and the Chief Restructuring Officer's ability to compete for future engagements and to the key employees generally;
- (ee) The sealing order will not prejudice stakeholders;

Proposed Monitor

- (ff) EY has consented to act as the Court-appointed Monitor of the Mobilicity Group, subject to Court approval.
- (gg) EY is not subject to any of the restrictions on who may be appointed as monitor set out in section 11.7(2) of the CCAA.

Paymentech

- (hh) The Mobilicity Group relies upon the services Chase Paymentech Solutions ("Paymentech") to process credit-card and debit card transactions;
- (ii) Paymentech has advised the Mobilicity Group of its intention to begin accumulating a \$1.2 million security deposit through enforcement of contractual holdback rights

General

- (jj) The provisions of the CCAA and the equitable jurisdiction of this Honourable Court; and
- (kk) Such further and other grounds as counsel may advise and this Honourable Court may permit.

3. The following documentary evidence will be used at the hearing of the application:

- (a) The affidavit of William E. Aziz sworn on September 29, 2013, and the Exhibits attached thereto;
- (b) The Consent of EY dated September 25, 2013 to act as the Monitor; and
- (c) The Pre-Filing Report of EY, as proposed Monitor, dated September 29, 2013; and
- (d) Such further and other material as counsel may advise and this Honourable Court will permit.

September 29, 2013

Norton Rose Fulbright Canada LLP
Royal Bank Plaza, South Tower
Suite 3800
200 Bay Street, P.O. Box 84
Toronto, Ontario M5J 2Z4 CANADA

Orestes Pasparakis LSUC#: 36851T
Tel: (416) 216-4815
Email:
Orestes.Pasparakis@nortonrosefulbright.com

Robert Frank LSUC#: 35456F
TEL: (416) 202-6741
Email:
Robert.Frank@nortnorosefulbright.com

Virginie Gauthier LSUC#: 41097D
Tel: (416) 216-4853
Email:
Virginie.Gauthier@nortonrosefulbright.com

Evan Cobb LSUC#: 55787N
Tel: (416) 216-1929
Email: Evan.Cobb@nortonrosefulbright.com

Fax: (416) 216-3930

Lawyers for the Applicants

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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

NOTICE OF APPLICATION

Norton Rose Fulbright Canada LLP
Royal Bank Plaza, South Tower, Suite 3800
200 Bay Street, P.O. Box 84
Toronto, Ontario M5J 2Z4 CANADA

Orestes Pasparakis LSUC#: 36851T
Tel: (416) 216-4815
Email: Orestes.Pasparakis@nortonrosefulbright.com

Robert Frank LSUC#: 35456F
TEL: (416) 202-6741
Email: Robert.Frank@nortonrosefulbright.com

Virginie Gauthier LSUC#: 41097D
Tel: (416) 216-4853
Email: Virginie.Gauthier@nortonrosefulbright.com

Evan Cobb LSUC#: 55787N
Tel: (416) 216-1929/ Fax: (416) 216-3930
Email: Evan.Cobb@nortonrosefulbright.com

Lawyers for the Applicants

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Applicants

**AFFIDAVIT OF WILLIAM E. AZIZ
(sworn September 29, 2013)**

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Applicants

**AFFIDAVIT OF WILLIAM E. AZIZ
(sworn September 29, 2013)**

I, **WILLIAM E. AZIZ**, of the Town of Oakville, in the Province of Ontario, MAKE OATH
AND SAY:

1. I am the President of BlueTree Advisors II Inc. ("**BlueTree**"), which has been retained by Data & Audio-Visual Enterprises Holdings Inc. ("**Holdings**") to provide my services to Holdings and its affiliates¹ (collectively, with Holdings, the "**Mobilicity Group**") as Chief Restructuring Officer of the Mobilicity Group. I report to the board of directors of Holdings. I am a director of each of the Mobilicity Group entities. BlueTree was retained pursuant to an Engagement Letter dated April 24, 2013 (the "**CRO Engagement Letter**").

2. I have more than 24 years of turnaround and corporate restructuring experience. I have led restructurings as an executive or board member involving all aspects of balance sheet and operational restructurings in diverse industries, including telecommunications (such as SR Telecom, a broadband wireless infrastructure enterprise), softwood lumber,

¹ The affiliates of Holdings are 8440522 Canada Inc. and Data & Audio-Visual Enterprises Wireless Inc.

steel manufacturing, refrigerated warehousing, transportation, retail, manufacturing and media.

3. I also have extensive experience as an independent director. I am currently a director, member of the Governance Committee and Chair of the Audit Committee for Canada Bread Company, Limited. I have previously served as:

- (a) Chair of the Investment Committee and a member of the Human Resources Committee of OMERS;
- (b) a board member of Tecumseh Products Company (Michigan) where I chaired the Governance and Nominating Committee and was a member of the Audit Committee;
- (c) a board member of Sun-Times Media Group, Inc. (Chicago); and
- (d) a member of the Restructuring Committee, and Chair of the Audit and Governance Committees of Doman Industries Limited (British Columbia).

4. I am a Chartered Accountant and an alumnus of Ernst & Young. I am a graduate of the Ivey School of Business at the University of Western Ontario. I have completed the Institute of Corporate Directors Governance College at the Rotman School of Business, University of Toronto.

5. I have been overseeing the restructuring efforts of the Mobilicity Group since April 24, 2013 and, as such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have reviewed the material records of the Mobilicity Group and have spoken with certain of the directors, officers, advisors and/or employees of the Mobilicity Group, as necessary, and, where I have relied upon such information, I believe such information to be true.

I. INTRODUCTION

6. This affidavit is sworn in support of an application for an order (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), by the entities that comprise the Mobilicity Group.

7. The Mobilicity Group carries on business as a Canadian wireless telecommunications carrier.

8. The Mobilicity Group has experienced significant financial challenges in the preceding months. The Mobilicity Group has pursued a variety of financing, sale and restructuring alternatives in an effort to resolve these financial challenges. In particular, and as further described below:

- (a) With the assistance of its financial and legal advisors, the Mobilicity Group solicited interest and discussed potential financing and sale transactions with multiple parties. These efforts commenced in July of 2012, have continued to date and remain ongoing.
- (b) In February 2013, the Mobilicity Group obtained \$35 million in bridge financing to provide it with the funding necessary to explore various strategic alternatives. The parties who provided the bridge financing are certain noteholders from the Ad Hoc Committee of Noteholders (as defined below).
- (c) In May 2013, after discussions with multiple parties, the Mobilicity Group reached an agreement with TELUS Corporation whereby TELUS Corporation would acquire the Mobilicity Group on a going-concern basis for \$380 million² pursuant to a plan of arrangement under the *Canada Business Corporations Act*. This transaction was supported by the Ad Hoc Committee of Noteholders, approved by substantial majorities of the Mobilicity Group’s

² In addition to the \$380 million purchase price, TELUS Corporation also agreed to assume \$35 million of negative working capital.

creditors and was approved as fair and reasonable by the Ontario Superior Court of Justice. This transaction would have preserved the Mobilicity Group's ability to continue as a going concern and would have resulted in the optimal outcome in the circumstances for the Mobilicity Group, its employees, customers, creditors and other stakeholders. However, the federal Minister of Industry announced in June 2013 that Industry Canada would not approve the transfer of the Mobilicity Group's spectrum licenses to TELUS Corporation at that time. As a result of the decision of the Minister of Industry at that time, the transaction could not be completed.

- (d) The Mobilicity Group has continued to solicit and pursue discussions with multiple parties. As part of those efforts, the Mobilicity Group solicited and received an expression of interest and engaged in detailed discussions with a significant U.S.-based wireless service provider; however, after significant due diligence these discussions did not ultimately result in a binding offer due to uncertainty surrounding the Government's upcoming spectrum auction.
- (e) The Mobilicity Group has recently approached representatives of the Minister of Industry with another potential sale transaction (the "**Proposed Transaction**"). However, the Mobilicity Group has not received the necessary approvals from the Minister of Industry for the Proposed Transaction at this time. As a result, the Mobilicity Group is not in a position to advance and complete the Proposed Transaction in time to avoid these CCAA proceedings. The Mobilicity Group continues to engage in discussions with the Government in an effort to advance and complete the Proposed Transaction as soon as possible.

9. The Mobilicity Group continues to explore and advance solutions to its financial challenges. However, the Mobilicity Group now faces an immediate liquidity crisis. Without the protection of the CCAA, an imminent shutdown of operations of the Mobilicity Group would be inevitable. CCAA protection in the form proposed by the Mobilicity Group will allow the Mobilicity Group the additional time and funding it needs to continue to pursue the Proposed Transaction and any other available alternatives.

10. All necessary board and shareholder authorizations have been obtained for this application.

11. The Mobilicity Group also understands that this application is supported by an ad hoc committee of the Mobilicity Group's significant creditors, who collectively represent approximately 92% of the principal value of the Unsecured Senior Notes, 100% of the principal value of the Bridge Notes and 67% of the principal value of the First Lien Notes (each as defined below) (the "**Ad Hoc Committee of Noteholders**").

II. MOBILICITY

A. Corporate Structure

12. The Mobilicity Group's corporate structure consists of the following entities:

- (a) **Holdings:** a private company incorporated under the *Business Corporations Act* (Ontario), R.S.O. 1990, c. B. 16 ("**OBCA**") in March 2008. Holdings holds 100% of the shares of Wireless (as defined below) and carries on no active operations. Holdings' registered head office is located at 101 Exchange Avenue in Vaughan, Ontario.
- (b) **Data & Audio-Visual Enterprises Wireless Inc. ("Wireless"):** the operating entity of the Mobilicity Group, is a private company which was incorporated under the OBCA in March 2008 and wholly owned by Holdings. Wireless' registered head office is located at 101 Exchange Avenue in Vaughan, Ontario. Data & Audio-Visual Enterprises Leasing Inc. ("**Leasing**") was amalgamated with Data & Audio-Visual Enterprises Wireless Inc. to form Wireless on May 15, 2013.
- (c) **8440522 Canada Inc. ("844"):** a private company incorporated under the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 ("**CBCA**") that is wholly-owned by Wireless. Its registered head office is located at 101

Exchange Avenue in Vaughan, Ontario. 844 has no material assets nor any liabilities.

13. As of the date of this Affidavit, the authorized capital of Holdings consists of:
 - (a) an unlimited number of Common Shares, of which 4,995,211 Common Shares are issued and outstanding. Data & Audio-Visual Enterprises Investments Inc. ("**Investments**") holds 3,330,141 Common Shares and QCP CW S.A.R.L. ("**Quadrangle**") holds the other 1,665,070 Common Shares; and
 - (b) an unlimited number of non-voting Class B shares, of which 20,204,790 Class B shares are issued and outstanding. All of Holdings' Class B shares are held by Quadrangle. Holdings' Class B shares are convertible at the option of the holder on a one-for-one basis into Common Shares, subject to certain regulatory restrictions and compliance requirements.
14. Investments holds an approximately 13.2% equity interest and a 66.7% voting interest in Holdings. Quadrangle holds an approximately 86.8% equity interest and 33.3% voting interest in Holdings (each on a non-diluted basis).
15. Holdings and Wireless are parties to a Second Amended and Restated Shareholders Agreement with Quadrangle and Investments dated as of May 14, 2010, a copy of which is attached hereto as Exhibit "A".
16. Wireless operates under a unanimous shareholder declaration dated August 1, 2008, a copy of which is attached hereto as Exhibit "B".
17. The Mobilicity Group and its member companies have financial inter-relationships and common interests and operate with a common business plan and governance model. There are no minority shareholders of Wireless or 844. As set out below, Holdings has guaranteed certain debts of Wireless, and Holdings has raised hundreds of millions of dollars by way of

equity and debt financing that it has contributed to Wireless, and which Wireless has used in furtherance of the Mobilicity Group's business, as a whole.

B. The Business of the Mobilicity Group

Overview

18. As stated above, the Mobilicity Group carries on business as a Canadian wireless telecommunications carrier. It provides cellular service to Canadians in five urban markets across Canada: Ottawa, Toronto, Calgary, Edmonton and Vancouver, and has roaming agreements to provide continuity of service to its customers when they are travelling outside these markets. In addition to voice, text, data and long distance cellular services, the Mobilicity Group offers hardware (handsets and accessories) to its customers, referred to as "subscribers" in the telecommunications industry.

19. The Mobilicity Group was founded on the concept of offering low cost cellular services to value-conscious consumers who are seeking less expensive cellular services than those offered by the established players in the market, being Bell Canada Inc., TELUS Corporation and Rogers Communications Inc. (together, the "**Incumbents**").

Spectrum Licences

20. All wireless communications signals travel over the air via radio frequency signals called "spectrum". Spectrum is a finite public resource that is controlled and regulated by the Government of Canada. Industry Canada oversees spectrum licensing and auctions.

21. In 2008, Industry Canada released a new cache of spectrum licences by holding an auction (the "**2008 Spectrum Auction**") for qualified bidders. At the 2008 Spectrum Auction, Wireless acquired 10 licences (the "**Spectrum Licences**") for \$243 million, effective

February 2009. The Spectrum Licences have an initial term of 10 years and will expire in February 2019. Renewal of the Spectrum Licences will be determined by Industry Canada at a later date. The Spectrum Licenses continue to be valuable assets of the Mobilicity Group.

22. Applicable conditions state that the Spectrum Licenses may not be transferred or leased to, acquired by means of a change in ownership or control of the licensee, divided among, or exchanged with companies that do not meet the criteria of a new entrant³, for a period of five years from the date of issuance. In the case of the Spectrum Licenses, that five year period expires on February 12, 2014 (the "**Moratorium Termination Date**").

23. In June 2013, Industry Canada announced that it will be holding another spectrum auction on January 14, 2014 (the "**2014 Spectrum Auction**"). Those intending to bid in the 2014 Spectrum Auction were required to submit a refundable deposit, together with their expression of interest, by no later than September 17, 2013. The Mobilicity Group did not make a deposit and does not intend to participate in the upcoming 2014 Spectrum Auction.

24. On September 23, 2013, Industry Canada released the list of entities who intend to participate in the 2014 Spectrum Auction. Upon reviewing this list, the Mobilicity Group learned for the first time that, in addition to the Incumbents, Feenix Wireless Inc. ("**Feenix**"), an entity wholly-owned by Mr. John Bitove, a director of Holdings that I understand indirectly controls 67% of Holdings' voting common shares, and The Catalyst Capital Group Inc. ("**Catalyst**"), the beneficial holder of approximately 30% of the First Lien Notes (as defined below), intend to participate in the 2014 Spectrum Auction. As described in greater detail below, Industry Canada has provided confirmation that the Mobilicity Group is not affiliated or associated with either Feenix or Catalyst.

³ A "new entrant" is an entity, including affiliated and associated entities, which holds less than 10 percent of the national wireless market based on revenue. The Mobilicity Group is a "new entrant". None of the Incumbents are "new entrants".

Business Operations

25. The Mobilicity Group was initially funded by a \$250 million investment in Holdings from Quadrangle and Investments, who received equity in return. These funds were contributed to Wireless by Holdings and used predominantly for the purchase of the Licences.

26. After purchasing the Spectrum Licences, the Mobilicity Group established an office, hired a management team to develop the wireless carrier business, contracted with Ericsson Canada Inc. ("**Ericsson**") to build a network system, established key contracts with suppliers and issued its first round of debt financing. In May 2010, the Mobilicity Group began marketing and selling services to subscribers.

27. The Mobilicity Group operates on a "pay in advance" billing system which provides set monthly plans for its subscribers. The pay in advance billing system allows subscribers to select from a variety of fixed-rate plans which vary in price and service offerings.

28. Approximately 60% of the Mobilicity Group's subscribers pre-pay their monthly bill by automatic billing to a credit card or automatic withdrawal through a bank account. The remaining 40% of subscribers pre-pay for cellular service, on a month-to-month basis, either by calling the Mobilicity Group's customer care centre or in-store.

29. As part of its business plan, the Mobilicity Group has sought and entered into agreements with strategic business suppliers and service providers, effectively outsourcing certain elements of its business, including network building and maintenance, real-time billing and rating, customer service and handset supply to the Mobilicity Group and its authorized dealers (the "**Dealers**"). These strategic partners are discussed in greater detail below in this affidavit.

C. Employees

30. As at August 1, 2013, the Mobilicity Group employed 132 people. Of that total, 26 employees work in its four corporately-owned stores. Most of the other 106 employees are full-time staff. The senior management team is comprised of four people. None of the Mobilicity Group's employees are unionized.

31. In response to the Mobilicity Group's financial difficulties, management has reduced the number of employees by approximately 205 people since December 2011.

D. Pensions and Benefits

32. The Mobilicity Group provides a standard benefit plan covering health, dental, AD&D and life insurance, short-term disability and long-term disability. The long-term disability premiums are paid by the employees themselves. The Mobilicity Group has no pension or RRSP plan.

E. Supply Chain and Service Providers

Distribution Channels

33. The Mobilicity Group sells cellular services and handsets by way of a combination of corporately-owned stores, independently operated stores and partnerships with retail vendors.

Corporate Stores and Dealers

34. In addition to the four corporately-owned stores, the Mobilicity Group sells cellular services and handsets through Dealers (including independently operated stores) and partnerships with retail vendors.

35. In particular, the Mobilicity Group Dealer network consists of approximately 314 points of distribution which include approximately 94 “platinum-level” stores that exclusively sell Mobilicity-branded services and only offer wireless-related products at their stores, and approximately 150 “gold” and “silver” level stores that either exclusively or non-exclusively sell Mobilicity branded services, but also sell non-wireless related products.

36. The platinum, gold and silver level stores are generally owner-operated small businesses. The platinum-level stores are entirely dependent upon sales of the Mobilicity Group products and services for revenue. Examples of the gold and silver level stores are electronics stores, computer-repair stores and convenience stores.

37. When subscribers sign up with the Mobilicity Group through a Dealer, the Dealer collects service payments on behalf of Wireless. Dealers typically earn a flat-fee commission for each subscriber who activates the Mobilicity Group’s service through the Dealer subject to prescribed customer retention requirements, and do not earn margin on the sale of Mobilicity Group handsets, nor do they earn ongoing commissions for active subscribers. The commission is paid to the Dealer 45 days after the end of the month in which the subscriber is signed on. Platinum-level dealers generally earn a higher rate of commission than other types of Dealers.

Retail Stores

38. The Mobilicity Group has distribution partnerships with a variety of regional and national retail stores, including: Loblaws, Mobile Republic and Value Mobile. Depending on the relationship and type of Mobilicity Group products that they offer, retailers are either paid commissions similarly to how a Dealer is paid, or through margin on handset sales.

Service Providers

39. The Mobilicity Group's business model provides for outsourcing of certain business functions: network building and maintenance, real-time billing and rating, provisioning systems, handset logistics and distribution and call centre operations.

Network Building and Maintenance

40. Pursuant to a network construction agreement effective July 15, 2009 (as amended, the "**Ericsson Network Agreement**") and a master service agreement dated March 31, 2010 (as amended, the "**Ericsson Service Agreement**"), both between Wireless and Ericsson, Ericsson has built and now maintains a UMTS/HSPA enabled network that provides voice and data services to Mobilicity Group subscribers. These agreements contain commercially sensitive terms and, as such, copies have been provided to Ernst & Young Inc., as the proposed Monitor (in such capacity, the "**Proposed Monitor**"), but they are not attached as exhibits to my affidavit.

Billing

41. Pursuant to an agreement between Wireless and Amdocs Canadian Managed Services Inc. ("**Amdocs**") dated October 15, 2009 (as amended, the "**Amdocs Agreement**"), Amdocs provides a real-time billing and operational support system for Wireless which includes activation, provisioning, rating and billing to Wireless subscribers. Wireless pays a monthly fee to license the vendor-owned hardware and software and for on-site support personnel. The Amdocs Agreement expires December 31, 2018, or earlier should the parties so elect (after January 1, 2014 and subject to early termination fees).

42. The Amdocs Agreement contains commercially sensitive terms and, as such, copies have been provided to the Proposed Monitor but they are not attached as exhibits to my affidavit.

Handset Distribution

43. Pursuant to a letter agreement between Ingram Micro Inc. ("**Ingram**") and Wireless dated March 1, 2013 (the "**Ingram Agreement**"), Ingram is the sole provider of handset distribution logistical services to the Mobilicity Group and its Dealers. Among other things, Ingram purchases inventory from original equipment manufacturers and delivers that inventory to the Dealers within 24 to 48 hours of a request for delivery. As per the Ingram Agreement, Wireless purchases any inventory in Ingram's possession for longer than 120 days. Wireless also pays a 50% deposit upon receipt of inventory by Ingram, which deposit is refunded to Wireless upon sale of that inventory to the Dealers or corporate-owned stores.

44. The Ingram Agreement contains commercially sensitive terms and, as such, copies have been provided to the Proposed Monitor but they are not attached as exhibits to my affidavit.

Roaming Agreements

45. As a condition to receiving a spectrum licence, Industry Canada requires that, where feasible, spectrum licensees offer automatic digital roaming on their networks for subscribers whose cellular service provider does not have spectrum coverage in a particular area in Canada. By agreement dated October 2, 2009 between Rogers Wireless Partnership ("**Rogers**") and Wireless (the "**Roaming Agreement**"), Rogers provides roaming services to Mobilicity Group's customers. The Roaming Agreement has a term of five years, expiring October 1, 2014. Amounts due under the Roaming Agreement are based on subscriber

usage and totalled approximately \$4.8 million in 2012. The Mobilicity Group has also entered into roaming agreements with other international telecommunications companies, which provide roaming services in the United States and certain countries in the Caribbean. The Mobilicity Group also has indirect sponsored roaming relationships that allow customers to receive roaming services in dozens of countries internationally. These agreements contain commercially sensitive terms and, as such, copies have been provided to the Proposed Monitor but they are not attached as exhibits to my affidavit.

Call Centre Operations

46. Pursuant to an agreement (as amended, the “**Sitel Agreement**”) between Wireless and Sitel Teleservices Canada (“**Sitel**”), Sitel provides all call centre services to Mobilicity Group subscribers. The Sitel Agreement could have been terminated on April 30, 2013 but has been automatically extended for a one year period in accordance with its terms. Absent notice to the contrary, the Sitel Agreement will continue to automatically extend for further one year periods.

47. The Sitel Agreement contains commercially sensitive terms and, as such, copies have been provided to the Proposed Monitor but they are not attached as exhibits to my affidavit.

F. Cash Management System

48. The Mobilicity Group maintains a cash management and disbursement system in the ordinary course of operations (the “**Cash Management System**”).

49. When subscribers sign up with the Mobilicity Group through a Dealer or pay their monthly subscription amounts at that Dealer’s location, the Dealer collects service payments on behalf of Wireless. Every evening, TIO Networks (a third party payment aggregator)

collects these payments from the Dealer, on behalf of Wireless, then deposits the payments into Wireless' bank account.

50. Approximately 60% of the Mobilicity Group's subscribers pay their bills directly via pre-authorized debit or credit card payments to the Mobilicity Group. Five to seven days prior to each monthly renewal date, the Mobilicity Group attempts to make a charge to the subscriber's registered debit or credit card. Upon successful confirmation, service is renewed.

51. The majority of subscriber payments by credit card or debit card to the Mobilicity Group are processed through Chase Paymentech Solutions ("**Paymentech**") pursuant to a Select Merchant Application and Agreement dated as of April 16, 2010 (the "**Paymentech Agreement**"). Upon successful credit/debit card authorization, cellular service is provided and Paymentech deposits the entirety of the funds payable to the Mobilicity Group into a Mobilicity Group-owned account within two days (the "**Transaction Payments**") and the Mobilicity Group has free access to these funds. Pursuant to the Paymentech Agreement, a "Settlement Account" was established by Wireless and Wireless authorized Paymentech to initiate electronic credit and debit entries and adjustments to that Settlement Account for all obligations arising under the Paymentech Agreement. In certain cases, Paymentech may exercise holdback rights against Transaction Payments that are otherwise due to Wireless in order to secure payments that may be due to Paymentech but that cannot otherwise be satisfied from the Settlement Account. Such payments may arise, for example, as a result of "chargebacks" where the Mobilicity Group is obligated to refund Transaction Payments previously received. Recently, Paymentech has advised the Mobilicity Group of its intention to begin accumulating a \$1.2 million security deposit through enforcement of contractual holdback rights. This began on September 1, 2013 and initially accumulated at 10%, and effective September 24, 2013, increased to 25%, of daily billings processed by Paymentech

until the total of \$1.2 million is reached. Holdback of any additional amounts will have a material negative impact on the Mobilicity Group's cash flow.

52. Subscribers also have the option to pay for their service via online banking, online debit payments or via a web-based payment app called WAP. Wireless is set up as a payee for online banking with all major Canadian banks. The bank-to-bank payments are processed through the Bank of Nova Scotia and funds are credited to the Mobilicity Group's account daily. Payments made using online debit transactions and WAP are either processed by SALT, or by Elavon (a US Bank subsidiary) for SALT.

53. Cash collected from cash-paying customers at the Mobilicity Group corporate stores is deposited twice weekly via Brinks and deposited in a Wireless bank account.

54. The nature of the Mobilicity Group's prepaid business means that accounts receivable from subscribers is nil. HST is a periodic receivable. All receivables payments are received via cheque or through direct deposit into a Wireless bank account.

55. Accounts payable, including Dealer commissions, rent (including for cell phone towers), employee expenses, trade expenses and customer refunds are processed by electronic funds transfer, cheque or an external service provider.

56. The Mobilicity Group has outsourced payroll processing to Ceridian Canada Ltd. ("**Ceridian**"), which performs this process on a twice monthly basis for the majority of employees. A small number of hourly corporate store employees are paid on a bi-weekly basis. Ceridian withdraws the necessary funds from a Wireless bank account two to three days prior to payday.

G. Subscribers

57. As described above, Wireless operates a “pay in advance” billing system which means their subscribers are generally not subject to long term contracts with Wireless.

58. As of the date of this affidavit, Wireless has approximately 194,000 active subscribers who together generate gross revenues of approximately \$6.3 million per month, with average monthly gross revenue per user (“**ARPU**”, an industry-wide operating metric) of approximately \$32, compared to an average Incumbent ARPU of approximately \$60.

59. Approximately 65% of Mobilicity’s subscribers are located in Ontario, 20% in British Columbia, and the remaining 15% in Alberta.

H. Properties and Facilities

60. The Mobilicity Group leases retail facilities in which the four corporate retail stores operate, as well as a corporate office in Vaughan and a sales office in Vancouver. There are two co-location data centres, one in Toronto and another in Vancouver, which house the network switching equipment. In addition, the Mobilicity Group leases or licenses space for approximately 500 locations, which are primarily building rooftops, for placement of its cellular broadcasting equipment (the “**Cellular Site Leases**”). The Mobilicity Group has, in selective cases, become the head tenant or provided lease guarantees for certain Dealers. The aggregate lease and license amounts for these aforementioned properties total to about \$11 million per year.

61. The lease of the Mobilicity Group’s corporate office space in Vaughan expires in accordance with its terms on October 31, 2013. This is the space from which the vast majority of the Mobilicity Group’s employees operate.

62. Whereas in the past the Mobilicity Group has paid the full annual cost of the Cellular Site Leases in advance, the Mobilicity Group's current liquidity position will not allow this to continue to occur. Accordingly, the Mobilicity Group proposes to pay these amounts monthly in advance.

I. Assets and Liabilities

Assets

63. In addition to the Mobilicity Group's customer base, as at July 31, 2013, the Mobilicity Group's assets were valued on a book basis at approximately \$362 million, as follows:

<u>Current Assets</u>	
Cash and equivalents	\$13,052,425
Accounts receivable	\$2,085,114
Prepaid expenses	\$4,394,804
Inventory	\$193,800
Total Current Assets	\$19,726,143
 <u>Non-Current Assets</u>	
Property and equipment	\$95,778,197
Intangible assets	\$246,987,862
Total Non-Current Assets	\$342,766,143
Total Assets	\$362,492,202

Property and Equipment

64. Property and equipment includes the network assets, furnishings and related equipment, office computer hardware/software, as well as the fixed assets located at the four corporate stores. The network assets, which had a net book value of \$89,873,517 as at July 31, 2013, comprise the bulk of asset value in this category.

Intangible Assets

65. Intangible assets consist of the spectrum licences acquired during the 2008 Spectrum Auction, which have an initial term of 10 years.

Tax Losses

66. In addition to the foregoing, as at fiscal year ended December 31, 2012, the Mobilicity Group had Canadian non-capital loss carry forwards amounting to approximately \$439 million expiring between 2029 and 2032. There are significant tax losses at both the Wireless and Holdings level. Losses incurred after December 31, 2012, would create Canadian non-capital loss carry forwards in addition to this amount.

Liabilities

67. As at July 31, 2013, the Mobilicity Group, on a consolidated basis, had liabilities totalling approximately \$465 million, of which approximately \$79 million consist of current liabilities such as accounts payable, deferred revenue and the Bridge Notes (as defined below). The remaining \$386 million is long-term debt. All liabilities of the Mobilicity Group reside in Holdings or Wireless. As stated above, 844 has no liabilities. Liabilities of Holdings and Wireless are as follows:

Accounts payable and accrued liabilities	\$28,512,669
Deferred revenue	\$6,839,580
Loan Payable	\$43,250,000
Total Current Liabilities	\$78,602,249
Long term debt	\$386,038,612
Total Non-Current Liabilities	\$386,038,612
Total Liabilities	\$464,640,861

The First Lien Notes

68. On April 29, 2011, pursuant to an indenture (as amended, the “**First Lien Note Indenture**”) among Data & Audio-Visual Enterprises Wireless Inc., Data & Audio-Visual Enterprises Leasing Inc. (each a predecessor by amalgamation of Wireless), Holdings and Equity Financial Trust Company, as trustee and collateral agent, Data & Audio-Visual Enterprises Wireless Inc. issued first lien notes totalling approximately \$195 million, due April 29, 2018 (the “**First Lien Notes**”). The First Lien Notes bear interest at a rate of 9.5% annually, due and payable semi-annually in cash on March 31 and September 30 until maturity. A copy of the First Lien Notes Indenture (and all supplements thereto) is attached hereto as Exhibit “C”. As of July 31, 2013, the amount outstanding on the First Lien Notes (including accrued interest) was approximately \$201.2 million. The next interest payment under the First Lien Notes, in the amount of approximately \$9.3 million, is due September 30, 2013.⁴

69. Holdings is a guarantor of the First Lien Notes and each of Wireless and Holdings has entered into general security agreements in connection with the First Lien Notes.

The Bridge Notes

70. Pursuant to the terms and conditions of a Note Purchase, Guarantee and Backstop Agreement, dated February 6, 2013, as amended from time to time, Data & Audio-Visual Enterprises Wireless Inc. (as predecessor by amalgamation of Wireless) agreed to issue up to \$43.25 million in second lien notes (the “**Bridge Notes**”) in three tranches, subject to the fulfilment of certain conditions precedent. At this time, a principal amount of \$43.25 million in

⁴ Although the interest payment is due on September 30, the non-payment of interest becomes an Event of Default under the First Lien Notes Indenture only upon non-payment for 30 days after September 30, 2013.

Bridge Notes is outstanding. These Bridge Notes mature, at the latest, on September 30, 2013. The next payment of interest in the amount of approximately \$0.5 million would otherwise be due on October 1, 2013.

71. On April 24, 2013, the holders of the Bridge Notes consented to an Order of the Ontario Superior Court of Justice (Commercial List) that stated, in part:

On consent of the holders of the [Bridge Notes], all holders of the [Bridge Notes] are hereby stayed from enforcing the payment or security in respect of the [Bridge Notes].

72. Holdings is a Guarantor of the Bridge Notes and each of Wireless and Holdings has delivered a General Security Agreement to secure the obligations thereunder. The obligations under the Bridge Notes are fully and effectively subordinated and postponed to the full and final payment of all obligations under the First Lien Notes.

73. A copy of the Note Purchase, Guarantee and Backstop Agreement, dated February 6, 2013 (including selected schedules and all amendments thereto) is attached hereto as Exhibit "D".

The Unsecured Senior Notes

74. Pursuant to a trust indenture, as amended and restated as of April 29, 2011 (the "**Unsecured Senior Note Indenture**") between Holdings and Equity Financial Trust Company, as trustee, Holdings issued 15% Senior Unsecured Debentures (the "**Unsecured Senior Notes**") in the total principal amount of \$95 million. The Unsecured Senior Notes mature on September 25, 2018. A copy of the Unsecured Senior Note Indenture (and all supplements thereto) is attached hereto as Exhibit "E".

75. The Unsecured Senior Notes bear interest at an annual rate of 15% (in certain limited circumstances, the interest rate will be 13.5%), which is payable semi-annually on June 30

and December 31. Interest payments are capitalized on each payment date as “payment in kind” interest, which are added to the principal amount outstanding on the Unsecured Senior Notes. As of July 31, 2013, the amount outstanding on the Unsecured Senior Notes (including payment in kind interest that has been added to the principal amount outstanding as well as accrued interest to July 31, 2013) was approximately \$154.4 million.

76. The financing provided through the Unsecured Senior Notes was invested in Wireless for use in the Mobilicity Group’s operating business.

The Unsecured Pari Passu Notes and the Unsecured Subordinated Notes

77. Pursuant to the Second Amended and Restated Commitment Agreement, Quadrangle advanced approximately \$95 million to Holdings between May 22, 2009 and October 1, 2012 and received certain convertible notes (collectively, the “**Convertible Notes**”). An initial amount of \$59,741,000 was advanced (evidenced by the “**Unsecured Pari Passu Notes**”). Subsequently, an additional \$35,000,000 was advanced (evidenced by the “**Unsecured Subordinated Notes**”). All commitments under the Second Amended and Restated Commitment Agreement are now fully drawn. A copy of the Second Amended and Restated Commitment Agreement is attached hereto as Exhibit “F”.

78. The Unsecured Subordinated Notes rank subordinate to the Unsecured Pari Passu Notes and the Unsecured Senior Notes while the Unsecured Pari Passu Notes rank *pari passu* with the Unsecured Senior Notes.

79. The Convertible Notes bear interest at an annual rate of 12%, which is payable annually on each anniversary of the date of issue of each tranche. Interest payments are capitalized each year as “payment in kind” interest, which is added to the principal amount outstanding on the Convertible Notes. As of July 31, 2013, the amount outstanding on the

Unsecured Pari Passu Notes and the Unsecured Subordinated Notes (including payment in kind interest that has been added to the principal amount outstanding as well as accrued interest to July 31, 2013), respectively, was approximately \$88.4 million and approximately \$38.6 million.

80. The financing provided through the Convertible Notes was invested in Wireless for use in the Mobilicity Group's operating business.

Intercreditor Arrangements

81. Holdings, Wireless, Quadrangle and Equity Financial Trust Company (in its capacity as trustee for each of the First Lien Notes and the Unsecured Senior Notes) entered into an intercreditor agreement (the "**Intercreditor Agreement**") dated April 29, 2011. A copy of the Intercreditor Agreement is attached hereto as Exhibit "G".

82. Equity Financial Trust Company (in its capacity as trustee for the Unsecured Senior Notes) and Quadrangle entered into an Amended and Restated Support Agreement dated April 29, 2011. A copy of that support agreement is attached hereto as Exhibit "H".

83. The trustee for the Unsecured Senior Notes executed an acknowledgment of subordination in favour of the collateral agent for the Bridge Notes dated February 6, 2013. A copy of that acknowledgment of subordination is attached hereto as Exhibit "I".

Indebtedness Summary

84. A summary of Holdings' and Wireless' outstanding indebtedness for borrowed money as at July 31, 2013 is set out below⁵:

First Lien Notes	\$201,217,294
Bridge Notes	43,819,360
Unsecured Senior Notes	154,421,643
Unsecured Pari Passu Notes	88,404,354
Unsecured Subordinated Notes	38,601,644
Total	\$526,464,295

85. The aggregate value of the Mobilicity Group's property is not, at a fair valuation, sufficient to enable payment of its obligations that are due or accruing due.

III. FINANCIAL DIFFICULTIES AND THE NEED FOR CCAA PROTECTION

A. Financial Difficulties

86. Wireless telecom start-ups are by their nature highly capital-intensive. Significant fixed costs, such as building networks and acquiring spectrum licences, must be incurred before revenue can be generated. During the period where a wireless carrier is building its customer base, revenue is typically insufficient to cover previously incurred investments and ongoing operating costs. It can take several years for a customer base to be adequately built.

87. For the seven months ended July 31, 2013, the cost of maintaining the Mobilicity Group's network, paying distributors and other service partners exceeded revenue by approximately \$3.9 million per month prior to financing costs.

⁵ Dollar figures include accrued interest. These figures deviate from those reported in the Mobilicity Group's financial statements (which are reported in paragraphs 65 and 69 above) due to certain financial accounting adjustments applicable to the conversion features on certain of the long term debt.

B. Financial Results

88. The Mobilicity Group's financial issues are reflected in its operating results. For the seven months ended July 31, 2013, the Mobilicity Group recognized revenue of \$46,864,490. During that period, the Mobilicity Group recorded a net loss of \$71,958,543. As of July 31 2013, the Mobilicity Group had accumulated a net deficit of \$431,807,958.

89. Copies of the Mobilicity Group's consolidated unaudited financial statements for the seven months ended July 31, 2013, as well as copies of all financial statements, audited or unaudited, prepared during the year before this application are attached as Exhibit "J" hereto.

C. Responses to Financial Difficulties

90. In response to the Mobilicity Group's financial difficulties, the Mobilicity Group's Board of Directors and management has sought various going-concern solutions for its business.

Initial Steps

91. In July 2012, the Mobilicity Group engaged National Bank and Canaccord Genuity (together, the "**Financial Advisors**") as their financial advisors in an effort to raise additional financing. Formal engagement letters were entered into with each of National Bank and Canaccord Genuity in January of 2013 (the "**FA Engagement Letters**" and, together with the CRO Engagement Letter, the "**Engagement Letters**"). These agreements contain commercially sensitive terms and, as such, copies are attached hereto as Confidential Exhibits "K" and "L".

92. I am informed by Michael Levin of Canaccord Genuity that with the assistance of the Financial Advisors, the Mobilicity Group solicited more than 30 potential investors in an

attempt to raise financing. In this regard, an investor roadshow was completed in August and September of 2012 without success.

93. I am informed by Mr. Levin that, in the meantime, the Mobilicity Group also canvassed the market for potential buyers for its business. I am informed by Mr. Levin that the Financial Advisors contacted more than 30 potential buyers, including wireless carrier incumbents, new wireless carrier entrants and international telecom providers and US private equity firms. As discussed earlier in this affidavit and below, the Mobilicity Group previously made significant progress on an acquisition transaction with TELUS Corporation and in discussions with a significant U.S.-based wireless service provider. However, for the reasons discussed above, the Mobilicity Group was not able to complete any of those transactions. As discussed above, the Mobilicity Group has since developed the Proposed Transaction, which is currently being considered by the Minister of Industry.

94. Other efforts made by the Mobilicity Group to improve its financial position have included cutting costs, limiting expenditures and renegotiation with several key suppliers. These reductions have achieved some short-term benefits; however, continued reductions at this scale are very difficult to sustain in a growth oriented business and do not provide sufficient cost savings to offset the Mobilicity Group's operating losses in any event.

Bridge Facility

95. By January 2013, the Mobilicity Group was in need of immediate funding in order to continue its operations and its exploration of solutions to its financial difficulties. The Mobilicity Group obtained \$35 million in bridge financing pursuant to the Bridge Notes. This funding was provided by certain noteholders from the Ad Hoc Committee of Noteholders.

96. The Bridge Notes facility was entered into on February 6, 2013. This was a second lien facility that was made available in three tranches to allow the Mobilicity Group to continue operations⁶ while it pursued strategic alternatives including potential acquisitions and a recapitalization plan.

97. As a condition of the Bridge Notes facility, the Mobilicity Group provided the purchasers of the Bridge Notes with an adequate protection letter (the “**Adequate Protection Letter**”) in which the Mobilicity Group acknowledged that the Bridge Lenders could be materially prejudiced by any subsequent interim financing, DIP financing or charges granted by any court that violated covenants in the agreement granting the Bridge Notes and agreed to consult with the Bridge Lenders regarding any such subsequent financing.

CBCA Proceedings

98. On April 25, 2013, the Mobilicity Group commenced two separate arrangement proceedings under the CBCA as part of its restructuring efforts. Pursuant to these arrangement proceedings, the Mobilicity Group sought to either reach agreement with a willing buyer for its business who could finance the operations going forward or to restructure its capital and secure additional funding in order to advance its business. The Mobilicity Group therefore proposed two separate Plans of Arrangement. These Plans of Arrangement were mutually exclusive but were advanced concurrently in an effort to complete a restructuring in a time-efficient manner.

99. Briefly, the two Plans of Arrangement were an acquisition plan (the “**Acquisition Plan**”) and a recapitalization plan (the “**Re-Cap Plan**”). The Acquisition Plan provided the framework for a potential purchaser to effectively and efficiently implement an acquisition of

⁶ A portion of the proceeds of the Bridge Notes was used to pay approximately \$9.3 million in interest on the First Lien Notes, which was due at the end of March 2013.

the Mobilicity Group on a going concern basis and provided for the repayment of the First Lien Notes and the Bridge Notes, with any remaining proceeds being distributed to holders of unsecured debt securities in accordance with their priorities. The Re-Cap Plan would have provided for the subscription by certain existing debt holders for \$75 million in principal value of new second lien notes (the “**New Second Lien Notes**”). The proceeds of the New Second Lien Notes would be used to: (i) repay the Bridge Notes; and (ii) the remainder would be used for general corporate purposes.

100. Interim Orders (the “**Interim Orders**”) were granted in respect of the Acquisition Plan and the Re-Cap Plan by the Honourable Mr. Justice Wilton-Siegel of the Ontario Superior Court of Justice (Commercial List) on April 26, 2013. Copies of those orders are attached hereto as Exhibits “M” and “N”.

101. After the Interim Orders were granted, the Mobilicity Group reached an agreement with TELUS Corporation for the sale of the Mobilicity Group for \$380 million (the “**TELUS Sale**”) subject to certain adjustments, pursuant to a Plan of Arrangement based upon the form of framework Acquisition Plan, with certain modifications to implement the TELUS Sale (the “**TELUS Acquisition Plan**”).

102. The Mobilicity Group held meetings of its creditors to consider and vote on the TELUS Acquisition Plan. A substantial majority of the Mobilicity Group’s creditors voted to approve the TELUS Acquisition Plan and, on May 28, 2013, the Honourable Mr. Justice Campbell of the Ontario Superior Court of Justice (Commercial List) granted a final Order under the CBCA approving the TELUS Acquisition Plan as “fair and reasonable”. The Mobilicity Group believed the TELUS Sale was in the best interests of all stakeholders and no stakeholder objected at the sale approval hearing.

103. Completion of the transaction with TELUS Corporation would have provided a comprehensive resolution of the Mobilicity Group's financial situation. The Mobilicity Group believed that the TELUS Sale would have resulted in an optimal outcome in the circumstances for the Mobilicity Group, its employees, customers, creditors and other stakeholders. In particular, the TELUS Sale would have assured the Mobilicity Group's ability to continue as a going concern and it would have avoided the insolvency of the Mobilicity Group.

104. However, the federal Minister of Industry announced on June 4, 2013 that Industry Canada would not approve TELUS Corporation's application to transfer certain spectrum licenses from the Mobilicity Group to TELUS Corporation as part of the TELUS Sale. As a result of Industry Canada's refusal, the TELUS Sale could not be completed. Industry Canada's communication of the above decision is included in a News Release dated June 4, 2013, which is attached hereto as Exhibit "O".

105. Since Industry Canada's rejection of the TELUS Sale, the Mobilicity Group has continued discussions with multiple parties in connection with alternative acquisition transactions. In particular, the Mobilicity Group solicited and received an expression of interest from a significant U.S.-based wireless service provider. The Mobilicity Group granted due diligence access to the potential acquirer and engaged in detailed discussions about a potential sale transaction. However, in early September 2013, the potential acquirer announced that it would not be continuing with negotiations.

106. In the two weeks preceding this application, the Mobilicity Group developed a transaction structure for the Proposed Transaction with a prospective purchaser, which is currently being considered by Industry Canada.

107. I met in Ottawa with representatives of the Government on September 18 and September 20, 2013 concerning the Proposed Transaction. I have not yet received a response as to whether the applicable Government representatives will approve a sale of the Mobilicity Group as proposed in the Proposed Transaction.

108. Last week, discussions on the sale transaction were unexpectedly interrupted upon Industry Canada's announcement of the participants in the 2014 Spectrum Auction in which it was disclosed that, among others, Feenix and Catalyst made deposits to participate in the 2014 Spectrum Auction. Industry Canada raised questions regarding possible restrictions on the continuation of discussions between the Mobilicity Group and the purchaser under the Proposed Transaction in view of the participation of Feenix and Catalyst in the 2014 Spectrum Auction. The Mobilicity Group diligently responded to these inquiries. The Mobilicity Group continues to work with the Government to advance and complete the Proposed Transaction as soon as possible.

109. Industry Canada has over this past weekend advised that its questions are resolved and that discussions on the Proposed Transaction are permitted to continue. They have confirmed that neither Feenix nor Catalyst are affiliated or associated with the Mobilicity Group in the context of the *Licensing Framework for Mobile Broadband Services (MBS) – 700 MHz Band*.

110. Nonetheless, the Mobilicity Group has reached a point where it must now, given its liquidity position, file for CCAA protection in an effort to preserve value for the Mobilicity Group's creditors, employees, customers and other stakeholders, and through which it will be able to obtain the additional time it needs to continue to pursue the Proposed Transaction and any other available alternatives.

D. The Mobilicity Group faces a liquidity crisis

111. Regarding its liquidity position, the Board of Directors of the Mobilicity Group is of the view that the Mobilicity Group as a whole will not, in the near future, have sufficient cash flow to meet its ongoing operating expenses and make the next interest payment of approximately \$9.3 million on the First Lien Notes and approximately \$0.5 million on the Bridge Notes. In light of these facts, the Mobilicity Group is insolvent and faces a liquidity crisis.

112. Without the protection of the CCAA, the Board of Directors of the Mobilicity Group is of the view that a shutdown of operations would be inevitable as the Mobilicity Group will cease to be able to pay its trade creditors in the ordinary course and will cease to be able to make interest payments on its outstanding debt securities.

113. The Board of Directors of the Mobilicity Group is of the view that the Mobilicity Group would be at risk of enforcement action by various creditor groups who would either not be paid in accordance with contractual obligations or whose debt obligations would be cross-defaulted as a result of non-payment of interest on other outstanding debt securities. This would place the Mobilicity Group in an unpredictable and unstable circumstance that would be detrimental to the Mobilicity Group and its stakeholders.

114. The Board of Directors of the Mobilicity Group is of the view that a CCAA Proceeding, and the stay of proceedings and interim financing thereunder, will both temporarily resolve the above concerns and provide evidence to the Mobilicity Group's customers, who are not subject to long term contracts, that the Mobilicity Group will not be prevented from continuing to provide services as a result of a lack of liquidity. While the Mobilicity Group initially sought to pursue its restructuring initiatives outside of a CCAA proceeding and believed that was the most beneficial course of action, this is no longer an option.

115. While under CCAA protection, the Applicants will continue to review available alternatives to reduce costs, while preserving their business and enterprise value to position themselves most favourably for a potential sale. Subject to the authority of Industry Canada, the Mobilicity Group's business, including its valuable Spectrum Licenses, can be transferred to an acceptable purchaser to realize their value, which recent offers for the Mobilicity Group indicate is well above the amount of the First Lien Notes. Alternatively, the Applicants may request the authorization of this Court to convey the Mobilicity Group business, including the Spectrum Licenses, to a purchaser under the provisions of the CCAA.

116. The CCAA proceeding will provide the Mobilicity Group with the additional time that it needs to continue to advance the Proposed Transaction and consider any other available alternatives, in the manner that best preserves value for stakeholders under the circumstances.

E. Catalyst Litigation

117. Shortly after the Bridge Notes financing was announced, Catalyst, which claims to be the beneficial owner of approximately 30% of the outstanding principal value of First Lien Notes, commenced an application (the "**Oppression Application**") in the Ontario Superior Court of Justice (Commercial List) against the Mobilicity Group seeking, among other things, remedies for alleged oppression in connection with the Bridge Notes. A copy of Catalyst's most recent Further Amended Notice of Application is attached hereto as Exhibit "P".

118. Preliminary motions have been heard in connection with the Oppression Application and cross-examinations have commenced.

119. The Oppression Application has been an ongoing, costly distraction to the Mobilicity Group throughout its efforts to restructure its business. The Applicants' proposed Initial Order would stay the Oppression Application.

120. On Thursday September 19, 2013, the Applicants' counsel, Norton Rose Fulbright Canada LLP, was served by Catalyst at approximately 8:30 pm with an unissued application for a "creditor-sponsored" CCAA proceeding returnable the next day (the "**Catalyst CCAA Application**"). Supplemental materials were served on September 25, 2013.

121. The Catalyst CCAA Application is only the latest attack by Catalyst in a long-running dispute with the Mobilicity Group, and an attempt by Catalyst to seek to increase its debt position and control over the Mobilicity Group on terms acceptable to Catalyst.

122. By way of summary, in late 2012, Catalyst provided the Mobilicity Group with two term sheets for alternate financings: a DIP financing and a backstopped rights offering. Exercising its business judgment, the Board of Directors of the Mobilicity Group, with the advice of the Financial Advisors and legal counsel, elected not to pursue either of these financings but instead to issue the Bridge Notes to the Bridge Lenders in February 2013.

123. Shortly after the issuance of the Bridge Notes, Catalyst commenced the Oppression Application against the Mobilicity Group.

124. In connection with the Acquisition Plan and the Re-Cap Plan, described above, Justice Wilton Siegel stated:

[i]n essence, there is an ongoing dispute between Catalyst, on the one hand, and the holders of the Second Lien Notes, supported by other holders of First Lien Notes and Unsecured Senior Notes, on the other.... This is a dispute regarding competing visions for addressing the current financial needs and prospects of the Mobilicity Group.

125. Attached at Exhibit "Q" is a copy of Justice Wilton-Seigel's reasons.

126. When the TELUS Sale was announced in May 2013, Catalyst was the only creditor known to the Mobilicity Group to vote against it. Ultimately, Catalyst chose not to oppose the application for approval of that plan of arrangement giving effect to the TELUS Sale.

127. Following the June 4, 2013 announcement by Industry Canada, described above, which denied an application to transfer Wireless' spectrum licenses to TELUS Corporation, Catalyst provided two new unsolicited financing term sheets to the Mobilicity Group. Exercising its business judgment, the Board of Directors of the Mobilicity Group, with the advice of the Financial Advisors and legal counsel, determined that the financing proposals were not suitable for the Mobilicity Group. Catalyst then continued to pursue the Oppression Application, and conducted my cross examination on August 16, 2013.

128. On August 28, 2013, the Mobilicity Group received a letter from counsel for Catalyst, stating, among other things:

While a CCAA filing is an obvious option, in Catalyst's opinion, this step would erode the potential value of the collateral held as security for the First Lien Notes, result in significant professional and related expenses, and have an adverse impact on the terms of any potential sale of the business.

Attached at Exhibit "R" is a copy of a letter from counsel for Catalyst to counsel for the Mobilicity Group.

129. On September 6, 2013, Catalyst made a further DIP financing proposal to the Mobilicity Group.

130. I am advised by Barry Goldberg of Canaccord Genuity that on September 17, 2013, he received a "courtesy" phone call from Mr. Gabriel De Alba, the Managing Director and Partner of Catalyst, inquiring about the status of Catalyst's DIP financing proposal. Mr. De

Alba advised Mr. Goldberg of Catalyst's intention to bring a petition for a bankruptcy order against the Mobilicity Group if it failed to accept Catalyst's latest DIP financing offer. Attached at Exhibit "S" is a copy of a letter from Marc Kestenberg, counsel for the Mobilicity Group, to David Moore, counsel for Catalyst, dated September 19, 2013, confirming the substance of that discussion.

131. Although Mr. Moore responded on September 19, 2013, by asserting that the facts contained in Mr. Kestenberg's letter were inaccurate, that evening at approximately 8:30 pm, Catalyst served the Catalyst CCAA Application. Attached at Exhibit "T" is a copy of Mr. Moore's email serving the Catalyst CCAA Application.

132. I have reviewed the Catalyst CCAA Application including the Affidavit of James A. Riley, sworn September 19, 2013 (the "**Riley Affidavit**"). I have also reviewed the Supplemental Affidavit of James A. Riley, dated September 25, 2013 (the "**Supplemental Riley Affidavit**"). This affidavit contained certain cash flow forecasts developed by Catalyst as well as certain financial statements of the Mobilicity Group.

133. The Catalyst CCAA Application is an attempt by Catalyst to seek to take control of the Mobilicity Group, and to effectively usurp the ability of the Mobilicity Group to pursue a restructuring that fairly balances the interests of all stakeholders. The Catalyst CCAA application would replace the Applicants' current chief restructuring officer with Catalyst's own chief restructuring officer (the "**Catalyst CRO**"), replace the proposed monitor, with whom the Applicants have been working, with a firm who is not familiar with the Applicants, suspend the boards of directors of the Applicants, and give the Catalyst CRO many of the powers over the Mobilicity Group, its assets and business that a receiver would typically have. The residual decision-making power would be vested in a "Creditor Committee" with a collection of members that has not yet been specified but would likely include Catalyst and

noteholders from the Ad Hoc Committee of Noteholders who are currently on opposite sides of ongoing litigation in the Oppression Application and who have divergent views of the best course of action for the Mobilicity Group in the current circumstances.

134. In addition, while labelled by counsel as a “creditor sponsored” application, the Catalyst CCAA Application does not disclose any plan of arrangement that Catalyst seeks to sponsor, nor does the Catalyst CCAA Application even disclose a strategic direction for a restructuring plan, nor does the Catalyst CCAA Application have the support of the Mobilicity Group’s main creditors, as represented by the Ad Hoc Committee of Noteholders who oppose the Catalyst CCAA Application.

135. The Catalyst CCAA Application also provides for a \$100 million priming debtor-in-possession facility (the “**Catalyst DIP Term Sheet**”) which the Applicants’ boards of directors, with the assistance of its financial and legal advisors, have reviewed, considered and determined in their business judgment is not in the best interests of the Mobilicity Group or its stakeholders. A copy of the Catalyst DIP Term Sheet contained in the Catalyst CCAA Application is attached as Exhibit “U” to this my affidavit.

136. The Catalyst DIP Term Sheet would see Catalyst receive (i) a \$3 million commitment fee, (ii) interest at a minimum rate of 13%, (iii) a drawdown fee of 3%, and (iv) back-stop fees of approximately \$22 million. I am advised by Michael Levin of Canaccord Genuity that this financing proposal would be the most expensive debtor-in-possession facility that has been proposed to the Mobilicity Group by a significant margin.

137. The “back-stop fee” payable to Catalyst is particularly excessive in the circumstances. Perhaps not coincidentally, this \$22 million fee is approximately equal to Catalyst’s share of a purported \$71 million make-whole payment that Catalyst has previously argued is due to the holders of First Lien Notes if those notes are repaid at this time, whether within or outside of

a restructuring proceeding (the “**Make-Whole**”). Catalyst has in the past pressed the Mobilicity Group to acknowledge that this Make-Whole would be payable on the First Lien Notes in all circumstances. However, based upon legal advice received by the Mobilicity Group, the Mobilicity Group has never agreed with Catalyst’s assertion. It appears that, through the Catalyst DIP Term Sheet, Catalyst is again seeking to indirectly secure its approximately 30% share of the Make-Whole that it claims is otherwise payable, though disguised as a “back-stop fee”.

138. Aside from economic terms, the Catalyst DIP Term Sheet also contains a variety of other issues of concern. In particular:

- (a) The term sheet is described as a “summary of certain indicative terms” and states that the definitive documentation will “contain such terms, conditions and provisions as are customary for financings of this type or deemed appropriate by Catalyst.” The Mobilicity Group has no certainty regarding the definitive terms of the Catalyst debtor-in-possession financing proposal and the Mobilicity Group does not know exactly when such a proposal could be implemented.
- (b) The quantum of the debtor-in-possession financing proposal, at \$100 million, is more than the Mobilicity Group requires at this time and is not rationally linked to financing needs during the period while the Mobilicity Group seeks to implement a restructuring or sale option.
- (c) The Catalyst financing provides for Holdings and 844 to give court-ordered super-priority secured guarantees. In the case of Holdings, this secured guarantee would prime existing indebtedness with a \$100 million super-priority charge, effectively pushing the existing creditors down the capital structure at a time when the Mobilicity Group is suffering significant losses. This would violate the terms of Holdings’ existing debt documents, which have negative covenants which preclude the incurrence of additional secured debt. Further,

as noted above, Holdings and 844 are not parties to the Catalyst CCAA Application.

- (d) The covenants and approval rights described in the Catalyst DIP Term Sheet provide Catalyst with extensive control over the actions of the Mobilicity Group, which Catalyst does not currently have as a holder of First Lien Notes.
- (e) The Catalyst financing terms would give Catalyst the ability to block a potential sale transaction or a plan that may have the support of the requisite majority of current noteholders. The general concern that arises from this negative covenant is heightened by the fact that Catalyst intends to participate in the 2014 Spectrum Auction and may have interests different from the Mobilicity Group's other creditors.
- (f) The Outside Date in the Catalyst financing is October 4, 2013. Given that the Mobilicity Group has not received any drafts from Catalyst to attempt to formalize the Catalyst financing, the Catalyst financing remains speculative and uncertain at this time. It does not appear that definitive documents for the Catalyst financing are likely to be in executable form until October 4, 2013. Meanwhile, Catalyst is requesting Court approval of its financing at this time. This risks providing Catalyst with undue bargaining power in respect of the negotiation of the definitive terms of the Catalyst financing.

139. The Catalyst CCAA Application would stay all proceedings against the Mobilicity Group except for the Oppression Application being pursued by Catalyst. The Mobilicity Group's CCAA Application would stay the Oppression Application.

140. On Friday September 20, 2013, counsel to the Applicants and counsel to Catalyst appeared in front of Justice Newbould and an endorsement was issued in which Catalyst agreed not to issue its application until at least Tuesday September 24, 2013 in order to allow discussions to take place. Without prejudice discussions have taken place, including between Mr. Riley and myself, but those discussions have not resulted in a resolution of the Catalyst CCAA Application.

141. I have reviewed the Riley Affidavit and the Supplemental Riley Affidavit. Rather than respond to each issue raised in those affidavits, I have attempted to set out the evidence of the Mobilicity Group in my narrative above. That said, there are a few issues raised by Mr. Riley which require a direct response.

142. In particular, at paragraph 71 of the Riley Affidavit, Mr. Riley states that the Bridge Lenders would be able to dictate the terms of the restructuring. The Mobilicity Group continues to make decisions independent of the Bridge Lenders. The Ad Hoc Committee of Noteholders, of which the Bridge Lenders are a subset, understandably have a significant interest in any restructuring path that the Applicants may seek to implement. The Ad Hoc Committee of Noteholders holds more than 67% of the First Lien Notes and the vast majority of the Unsecured Senior Notes. Notwithstanding any rights or interests of the Bridge Lenders, the Mobilicity Group continues to make decisions independent of the Bridge Lenders.

143. At paragraph 99(c) of the Riley Affidavit, Mr. Riley alleges that the Bridge Notes contain undisclosed fees. I believe that Catalyst is aware of all of the fees payable under the Bridge Notes. In any event, all of the fees are secured by a second priority lien, subordinate to Catalyst's First Lien Notes security.

144. At paragraph 99(b) of the Riley Affidavit, he alleges that there is no value at the Holdings level. Such statements are not supported. In particular, as part of the proposed \$380 million TELUS Sale, there would have been recoveries to the debt holders of Holdings after payment of the secured notes issued by Wireless. Furthermore, TELUS Corporation specifically sought to structure the transaction as an acquisition of the shares of Holdings in order to make use of key tax attributes held by Holdings.

145. At paragraph 115 of the Riley Affidavit, Mr. Riley alleges that the decision of the Mobilicity Group not to participate in the 2014 Spectrum Auction may have adversely affected the collateral held by the First Lien Note holders. First, the collateral of the First Lien Noteholders remains fully intact, as demonstrated by the recent offers received by the Mobilicity Group which have offered consideration well in excess of the amounts owed to the First Lien Note holders. Second, if the Mobilicity Group had participated in the 2014 Spectrum Auction (assuming it had the funding to do so), the prohibitions against collusive activities among bidders in the 2014 Spectrum Auction that governed the Auction would have made it impossible for the Mobilicity Group to fully consider the potential field of acquirers of Mobilicity after September 17, 2013.

IV. OVERVIEW OF THE CASH FLOW FORECAST

146. As set out in the 13 week cash flow projections (the "**Cash Flow Statement**") that was prepared by the Applicants with the assistance of the Proposed Monitor for the period from September 21, 2013 to December 20, 2013, the Applicants' principal uses of cash during the next 13 weeks will consist of the payment of ongoing day-to-day operational expenses, and professional fees and disbursements in connection with these CCAA proceedings. A copy of the Cash Flow Statement is attached hereto as Exhibit "V".

147. As at the time of swearing this affidavit, the Applicants had approximately \$7.6 million in available cash on hand. The Applicants' Cash Flow Statement projects that, subject to obtaining the relief outlined herein, they will have sufficient cash to fund their projected operating costs until the end of the stay period.

V. PROPOSED INITIAL ORDER

A. Payment of pre-filing amounts

148. The Mobilicity Group believes that certain pre-filing amounts must be paid following the date of the Initial Order as non-payment of these amounts may have a significant detrimental impact on the Mobilicity Group's business.

149. As mentioned above, the Mobilicity Group's Dealer network relies heavily (and in some cases exclusively) upon commissions from the sale of Mobilicity Group products and services. Payment of commissions to those Dealers is delayed by at least 45 days in the ordinary course. These Dealers often operate with very low liquidity and any disruption to the stream of revenue derived from commissions would cause many of these Dealers to cease operations due to a lack of funding. As these Dealers are essential points of contact for both the retention of existing customers and potentially signing up new customers, the Mobilicity Group depends upon them as a key channel for revenue generation that it cannot afford to lose. As a result, the Mobilicity Group will be requesting that it be permitted to pay commissions earned by the Dealers during the pre-filing period in the ordinary course, as approved by the Chief Restructuring Officer, after the date of the Initial Order. The Mobilicity Group estimates that the pre-filing amounts to be paid for this purpose are approximately \$1.45 million.

150. The Mobilicity Group's employees depend heavily upon their employment compensation and any disruption in receipt of such compensation would dramatically impact the lives of the Mobilicity Group's employees. The Mobilicity Group will also require a motivated group of employees to work through the CCAA proceedings. Certain employment compensation that has accrued since the last regularly scheduled employee payment date will remain unpaid as at the date of the Initial Order. Accordingly, the Mobilicity Group will be

requesting that any such employment compensation be paid, subject to approval of the Chief Restructuring Officer, following the date of the Initial Order. The Mobilicity Group estimates that the amounts to be paid for this purpose are approximately \$400,000 as at the date of swearing this affidavit.

151. As the Mobilicity Group's customers pre-pay for their services, the Mobilicity Group will in substance discharge a pre-filing obligation to those customers by continuing to provide services in the post-filing period on account of prepayments made in the pre-filing period.

B. Administration Charge

152. The Mobilicity Group seeks a charge on its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**") in the maximum amount of \$10 million to secure the fees and disbursements incurred in connection with services rendered to the Mobilicity Group both before and after the commencement of the CCAA proceedings by counsel to the Mobilicity Group, the Proposed Monitor, the Proposed Monitor's counsel, counsel to the DIP Lenders and counsel to the Ad Hoc Committee of Noteholders, BlueTree, the Financial Advisors, and independent counsel that may be retained by the boards of directors of the Applicants (the "**Administration Charge**"). The Administration Charge will rank behind only the liens securing obligations under the First Lien Notes and the First Lien Notes Indenture and *pari passu* with the KERP Charge (defined below).

153. The Mobilicity Group has worked with the proposed Monitor to determine the proposed quantum of the Administration Charge and believes it to be reasonable and appropriate in view of the Mobilicity Group's CCAA proceedings and the services provided and to be provided by the beneficiaries of the Administration Charge.

C. Directors' Charge

154. To ensure the ongoing stability of the Mobilicity Group's business during the CCAA period, the Mobilicity Group requires the continued participation of its directors and officers who manage the business and commercial activities of the Mobilicity Group. The directors and officers of the Mobilicity Group have considerable and valuable experience.

155. The directors and officers of the Mobilicity Group have indicated that due to the potential for personal liability, they cannot continue their service in this restructuring unless the Initial Order grants the Directors' Charge (as defined below) to secure the Mobilicity Group's indemnity obligations to the directors and officers that arise post-filing.

156. I am advised by Evan Cobb of Norton Rose Fulbright Canada LLP, counsel to the Mobilicity Group, and do verily believe, that in certain circumstances directors can be held liable for certain obligations of a company owing to employees and government entities. As at August 1, 2013, the Mobilicity Group had 132 employees. Wages, vacation pay, and statutory employee deductions are accruing in the ordinary course with no arrears due and unpaid as at the date hereof.

157. The Mobilicity Group maintains directors' and officers' liability insurance (the "**D&O Insurance**") for the directors and officers of the Mobilicity Group entities. The current D&O Insurance policies provide a total of \$10 million in coverage plus \$10 million in excess coverage. In addition, under the D&O Insurance a retention amount is applicable for certain claims in the amount of \$25,000.

158. The proposed Initial Order contemplates the establishment of a charge on the Property in the amount of \$550,000 (the "**Directors' Charge**") to protect the directors and officers against obligations and liabilities they may incur as directors and officers of the

Mobilicity Group after the commencement of the CCAA Proceedings, except to the extent that the obligation or liability is incurred as a result of the director's or officer's gross negligence or wilful misconduct. The Directors' Charge was calculated by reference to (a) the monthly payroll and withholding obligations of the Mobilicity Group; (b) vacation pay; and (c) the quantum of sales tax that the Mobilicity Group must remit in the typical month.

159. The benefit of the Directors' Charge will only be available to the extent that a liability is not covered by the D&O Insurance.

160. While the D&O Insurance is available, the directors and officers of the Mobilicity Group cannot be certain that the insurance providers will not seek to deny coverage on the basis that the D&O Insurance does not cover a particular claim or that coverage limits have been exhausted.

161. The Mobilicity Group does not currently have sufficient funds available to satisfy any contractual indemnities to the directors or officers should the directors or officers need to call upon those indemnities.

162. The Mobilicity Group worked with the Proposed Monitor in determining the proposed quantum of the Directors' Charge and believes the Directors' Charge is reasonable in the circumstances. The Directors' Charge is proposed to rank behind the liens securing the First Lien Notes, the Administration Charge and the KERP Charge.

163. In the ordinary course, certain members of the Board of Directors of the Mobilicity Group receive fees for attending and participating in board meetings. The Mobilicity Group intends to continue to pay those fees following the granting of the Initial Order in these proceedings. The Mobilicity Group also intends to pay for one independent legal counsel to the boards of directors of each of the Applicants, in accordance with those directors' rights.

D. Key Employee Retention Plan and Charge

164. The Mobilicity Group depends upon the continued employment of certain highly skilled and experienced employees who: (i) perform roles that are critical to accomplishing the Mobilicity Group's restructuring goals⁷; and (ii) likely cannot be suitably replaced at a reasonable cost (the "**Key Employees**").

165. The Key Employees will be essential to the Mobilicity Group's efforts to pursue the Proposed Transaction and other alternatives. However, those Key Employees are also incentivized to seek alternative employment given the financial circumstances of the Mobilicity Group. Therefore, the Mobilicity Group has developed a retention plan for these Key Employees (the "**Key Employee Retention Plan**"), the details of which are described in a summary attached hereto as Confidential Exhibit "W".

166. In designing the terms of the Key Employee Retention Plan, the Mobilicity Group considered a variety of factors including: (i) the maximum cost of the Key Employee Retention Plan; (ii) identification of appropriate employees who should benefit from the Key Employee Retention Plan; (iii) individual compensation levels; and (iv) market competitiveness of resulting total compensation levels for participating employees.

167. The terms of the Key Employee Retention Plan have been approved by the Independent Committee of the Board of Directors of Holdings.

168. The Mobilicity Group contemplates that the amounts owing under the Key Employee Retention Plan would have the benefit of a court ordered charge in a quantum and having the ranking described below (the "**KERP Charge**").

⁷ In evaluating this factor, the Mobilicity Group looked particularly carefully at positions in its finance and human resources departments that would be relied upon in the restructuring, positions that were central to operations, and critical leadership roles required to maintain the stability of the business.

169. The aggregate value of the KERP Charge is \$600,000. The Proposed Monitor has reviewed the KERP Charge and believes that this amount is reasonable in the circumstances. No other stakeholder would be materially prejudiced by the KERP Charge. Each of the Key Employees and each of the Key Executives will only have the benefit of the KERP Charge up to their respective individual entitlements as provided under the Key Employee Retention Plan.

170. The KERP Charge is proposed to rank *pari passu* with the Administration Charge and behind only the liens securing the obligations under the First Lien Notes and the First Lien Notes Indenture.

171. The financial terms of each participant's benefits under the Key Employee Retention Plan are reflected in agreements attached hereto as confidential exhibits "X" through "DD". In order to prevent private and confidential information about individual employees from being publicly disclosed, the Mobilicity Group will request an order sealing these confidential exhibits.

E. DIP Financing and DIP Lenders' Charge

172. The Mobilicity Group seeks interim debtor in possession financing ("**DIP Financing**").

173. The Mobilicity Group requires access to DIP Financing to (a) maintain operating cash; (b) fund the costs of these proceedings; (c) pursue the Proposed Transaction and any other available alternatives; and (d) provide suppliers and customers with confidence that the Mobilicity Group will be able to maintain its operations during these proceedings.

174. The Mobilicity Group received DIP Financing proposals from not less than four parties, including existing creditors as well as third parties with no prior financial involvement

with the Mobilicity Group. One such proposal was provided by the holders of the Bridge Notes and another was provided by Catalyst⁸. The Mobilicity Group engaged its Financial Advisors and legal counsel to assist in the evaluation of the DIP Financing options that were presented.

175. Upon review, the Mobilicity Group determined, with advice from its advisors, that the proposals provided by the non-creditor third parties likely could not be implemented. Therefore, the Financial Advisors proceeded to have discussions with the holders of the Bridge Notes and Catalyst to obtain what the Mobilicity Group believed to be the best available offer from each party either in the form of a final definitive term sheet or definitive agreements. These discussions occurred over the course of several weeks.

176. The Financial Advisors and counsel to the Mobilicity Group evaluated these DIP Financing options, including the Catalyst DIP Term Sheet, based upon, among other things, quantum, conditions, price, ranking and execution risk and provided their expert views to the Board of Directors of the Mobilicity Group. After extensive consideration of the DIP Financing options, and after considering the advice of its legal and financial advisors, the members of the Board of Directors of the Mobilicity Group concluded, in an exercise of their business judgment, that the DIP Financing option presented by the holders of the Bridge Notes was the best available option. As a result, the Mobilicity Group has negotiated a DIP Note Purchase and Guarantee Agreement (the **"DIP Loan Agreement"**) with the holders of the Bridge Notes (the **"DIP Lenders"**). A redacted copy of the DIP Loan Agreement is attached hereto as Exhibit "EE".

⁸ This proposal by Catalyst was provided prior to the Catalyst CCAA Application and contains substantially different terms than those described in the Catalyst CCAA Application.

177. The Proposed Monitor's pre-filing report contains additional detail in respect of the DIP Loan Agreement. Below is a brief summary of the terms of the DIP Loan Agreement⁹:

- (a) Facility amount: \$30 million.
- (b) Availability: Available in five tranches:
 - (i) First Tranche: \$3.2 million.
 - (ii) Second, Third and Fourth Tranches: each in a principal amount of \$7.5 million.
 - (iii) Fifth Tranche: \$4.3 million.
- (c) Conditions: Certain conditions to each draw are set forth in the DIP Loan Agreement. Among other conditions, the first tranche will be available if the Mobilicity Group's available cash is \$2,000,000 or less, and subsequent tranches will be available if (i) the Initial Order has become a Final Order; (ii) the Mobilicity Group has presented a proposed Restructuring Alternative to the DIP Lenders by October 24, 2013; and (iii) the DIP Lenders are satisfied with the status of any Restructuring Alternative or Approved Transaction by November 12, 2013. The DIP Loan Agreement also provides flexibility to allow borrowings in smaller "sub-tranches" based upon the funding requirements of the Mobilicity Group.
- (d) Purpose: Working capital and other general corporate purposes including, without limitation, payment of fees and expenses incurred in connection with these CCAA proceedings. Funds will be used only in accordance with cash flow forecasts.
- (e) Interest Rate: 15.5% per annum. Cash interest would be paid monthly on the DIP Financing.

⁹ Capitalized terms used in this section of my affidavit have the meaning ascribed to them in the DIP Loan Agreement. If there are inconsistencies between any summary of the DIP Loan Agreement contained herein and the terms and conditions of the DIP Loan Agreement itself, the terms and conditions of the DIP Loan Agreement shall govern.

- (f) DIP Funding Fee: This shall be calculated as 10% of the amount drawn on the closing date of each tranche of funding, which fee is payable in additional notes.

178. The DIP Financing is conditional upon the provision of an order of the Court, among other things, approving the DIP Financing arrangement and approving a security interest, lien and charge on all of the Mobilicity Group's property (the "**DIP Lenders' Charge**"). A significant determining factor is that the DIP Lenders' Charge is intended to rank behind the liens securing the obligations under the First Lien Notes and the First Lien Notes Indenture and behind the Administration Charge, the KERP Charge and the Directors' Charge, but *pari passu* with the liens securing the Bridge Notes.

179. The DIP Loan Agreement contains covenants and events of default that are reflective of the circumstances of the Mobilicity Group. Enforcement steps may only be taken by the DIP Lenders with leave of the Court.

180. After receiving considerable legal and financial advice, the Mobilicity Group believes that the DIP Financing is in its best interests and in the best interest of all stakeholders. The Mobilicity Group has considered, among other things, the following factors:

- (a) The DIP Financing has been designed as a multiple draw facility in accordance with pre-determined cash requirements of the Mobilicity Group's business and the progress of its restructuring, such that financing will not be made available in an amount above the Mobilicity Group's cash requirements at any particular time in these proceedings.
- (b) The duration and quantum of the DIP Financing is designed to allow the Mobilicity Group an expanded opportunity to transfer its business, including its valuable Spectrum Licenses, subject to certain reasonable milestones and conditions.
- (c) The Mobilicity Group has the support of major creditor groups. I am advised by Robert Chadwick of Goodmans LLP, counsel to the Ad Hoc Committee of

Noteholders, that these proceedings and the DIP Financing are supported by the Ad Hoc Committee of Noteholders.

- (d) The Mobilicity Group, with the assistance of the Chief Restructuring Officer, has established a business plan to ensure that costs can be reduced to the greatest extent possible during these proceedings.
- (e) Indications of value of the Mobilicity Group's assets to date, in particular through the TELUS Sale of \$380 million and comparable indications of interest received in connection with the Proposed Transaction and from other third parties, suggest that the Mobilicity Group's assets are of sufficient value to prevent any First Lien Note holder from experiencing a shortfall on its secured debt. As a subordinate facility, the DIP Financing does not impact this analysis.
- (f) The Proposed Monitor supports the DIP Financing.

F. Proposed Ranking of the Court-Ordered Charges

181. The proposed ranking of the Court-ordered charges (the "**Charges**") is as follows:

- (a) First, liens securing obligations under the First Lien Notes and the First Lien Notes Indenture;
- (b) Second, Administration Charge and KERP Charge;
- (c) Third, the Directors' Charge; and
- (d) Fourth, the DIP Lenders' Charge/liens securing the obligations under the Bridge Notes.

182. I am advised by Mr. Cobb that the trustee under the First Lien Notes Indenture, the holders of the Bridge Notes, and the collateral agent under the Bridge Notes, will be served

with the Mobilicity Group's notice of application in these proceedings. I am further advised by Mr. Cobb that Catalyst will also be served with the Mobilicity Group's notice of application.

183. The Mobilicity Group is unaware of any secured creditors other than those who have received notice of this application, who are likely to be affected by the Charges. The Mobilicity Group has conducted: (i) Bankruptcy and Insolvency searches with the Office of the Superintendent of Bankruptcy Canada current to August 27, 2013, (ii) Bankruptcy searches with the Ontario Superior Court of Justice in Toronto and Ottawa current to August 28, 2013 and August 15, 2013, respectively; Bankruptcy searches with the Clerk of the Court in Edmonton current to August 29, 2013; and Bankruptcy searches with the Supreme and Provincial Civil Court Registries in British Columbia current to August 29, 2013, (iii) Personal Property Security Registration System searches in Ontario, Alberta and British Columbia current to August 28, 2013 and August 29, 2013, respectively and (iv) Bank Act security searches current to August 29, 2013, in each case in Ontario, British Columbia and Alberta, being all jurisdictions in which the Mobilicity Group has assets. The Mobilicity Group has also conducted Writ of Execution searches with the Sheriff in the City of Ottawa, the City of Toronto, the Regional Municipality of Peel, Vancouver, New Westminster and Surrey, current to August 29, 2013.¹⁰ Copies of those searches are attached hereto as Exhibit "FF".

G. Approval of the CRO and Financial Advisor Engagements

184. In order to assist in the implementation of this CCAA process, the Applicants seek the approval and confirmation of the Court of the retention of the Financial Advisors and the Chief Restructuring Officer, and approval of the terms of the Engagement Letters.

¹⁰ I am advised by Mr. Cobb that no execution searches were conducted in Alberta as those search results would be included in the personal property security registry search results for Alberta.

185. Under the FA Engagement Letters, the Applicants agreed to apply to the Court for approval of the FA Engagement Letters, retention of the Financial Advisors (nunc pro tunc to the date of the FA Engagement Letters) and the payment of the fees and expenses of Financial Advisors. It is unlikely that the Financial Advisors would have accepted their respective mandates without this undertaking.

186. The Mobilicity Group believes that the same approvals should be sought in connection with the CRO Engagement Letter and the appointment of BlueTree (nunc pro tunc to the date of the CRO Engagement Letter). A copy of the CRO Engagement Letter is attached hereto as Confidential Exhibit "GG".

187. The approval of the engagement of the Financial Advisors and the Chief Restructuring Officer is appropriate in the circumstances as the Financial Advisors and the Chief Restructuring Officer have worked extensively with the Applicants to date in their pre-CCAA restructuring efforts and have extensive knowledge of the options reviewed and available to the Applicants. The Financial Advisors' and the Chief Restructuring Officer's background knowledge is particularly helpful in the ongoing review of strategic alternatives for the Applicants particularly given the highly specialized industry in which the Applicants operate.

188. Certain transactions have already been completed which would entitle the Financial Advisors to certain fees under the terms of the FA Engagement Letters. The Financial Advisors have deferred those fees to date in view of the Applicants' financial circumstances. However, the Applicants always understood that these fees owing to the Financial Advisors would be paid out of the proceeds of a successful transaction, whether pre-filing or post-filing.

189. The Applicants will be seeking an Order sealing the Confidential Exhibits to this Affidavit which contain the Engagement Letters. The Engagement Letters are commercially sensitive as they contain the commercial terms of the engagement of each of the Financial Advisors and the Chief Restructuring Officer. The disclosure of those commercial terms would have a detrimental impact on the Financial Advisors' or the Chief Restructuring Officer's ability to negotiate compensation on any future engagements. Further, the sealing of these Confidential Exhibits would not seem to materially prejudice any third parties. I note that counsel to the Ad Hoc Committee of Noteholders, and Quadrangle, being the holder of all of the Unsecured Pari Passu Notes and the Unsecured Subordinated Notes, have each reviewed the Engagement Letters.

VI. MONITOR

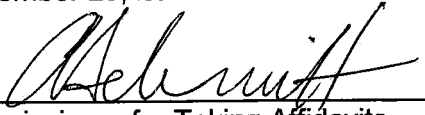
190. Ernst & Young Inc. has consented to act as the Court-appointed Monitor of the Mobilicity Group, subject to Court approval.

191. Ernst & Young Inc. is a trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and is not subject to any of the restrictions on who may be appointed as monitor set out in section 11.7(2) of the CCAA.

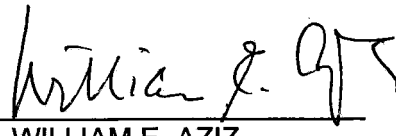
VII. PURPOSE OF AFFIDAVIT

192. This affidavit is sworn in support of the Mobilicity Group's application and for protection pursuant to the CCAA and for no improper purpose.

SWORN BEFORE ME at the City of
Toronto, Province of Ontario, on
September 29, 2013.



Commissioner for Taking Affidavits



WILLIAM E. AZIZ

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

Court File No: _____

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF DATA &
AUDIO-VISUAL ENTERPRISES WIRELESS INC., DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC. AND DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

**AFFIDAVIT OF WILLIAM E. AZIZ
(Sworn September 29, 2013)**

Norton Rose Fulbright Canada LLP
Royal Bank Plaza, South Tower, Suite 3800
200 Bay Street, P.O. Box 84
Toronto, Ontario M5J 2Z4 CANADA

Orestes Pasparakis LSUC#: 36851T
Tel: (416) 216-4815

Email: Orestes.Pasparakis@nortonrosefulbright.com

Robert Frank LSUC#: 35456F

TEL: (416) 202-6741

Email: Robert.Frank@nortonrosefulbright.com

Virginie Gauthier LSUC#: 41097D

Tel: (416) 216-4853

Email: Virginie.Gauthier@nortonrosefulbright.com

Evan Cobb LSUC#: 55787N

Tel: (416) 216-1929 / Fax: (416) 216-3930

Email: Evan.Cobb@nortonrosefulbright.com

Lawyers for the Applicants

Exhibit “A”

Execution Version

SECOND AMENDED AND RESTATED SHAREHOLDERS AGREEMENT

BETWEEN

DATA & AUDIO-VISUAL ENTERPRISES INVESTMENTS INC.

AND

QCP CW S.A.R.L.

AND

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

AND

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

MADE AS OF MAY 14, 2010

This is Exhibit A referred to in the
affidavit of William Aziz
sworn before me, this 29
day of September 2013
[Signature]
A COMMISSIONER IN CHIEF TAKING AFFIDAVITS

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SECOND AMENDED AND RESTATED SHAREHOLDERS AGREEMENT

This Agreement is made as of May 14, 2010, between

DATA & AUDIO-VISUAL ENTERPRISES INVESTMENTS INC., a corporation incorporated under the laws of Ontario
(**"DAVE"**)

and

QCP CW S.A.R.L., a société à responsabilité limitée organized under the laws of Luxembourg (**"Quadrangle"**)

and

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC., a corporation incorporated under the laws of Ontario
(the **"Company"**)

and

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., a corporation incorporated under the laws of Ontario (**"OpCo"**)

RECITALS

- A. The authorized capital of the Company will consist of (i) an unlimited number of common shares, convertible on a one-to-one basis at the option of the holder into Class B Shares (as defined below) (**"Common Shares"**), and (ii) an unlimited number of non-voting participating Class B shares, convertible at the option of the holder on a one-to-one basis into Common Shares (the **"Class B Shares"**), each such class of shares having the rights, restrictions, conditions and limitations set out in the Articles of Amendment of the Company, a copy of which is attached hereto as Schedule A.
- B. All the issued and outstanding shares of the Company are owned beneficially and of record by the Shareholders in the proportions as set out in Schedule B, which also sets out shares of the Company acquired on September 2, 2008 pursuant to the Subscription Agreements (as defined herein).
- C. The Company now owns beneficially and of record all the issued and outstanding shares in the capital of OpCo.
- D. All of the issued and outstanding shares of DAVE are owned beneficially and of record by CSRI Inc. (**"CSRI"**).
- E. All of the issued and outstanding shares of Quadrangle are owned beneficially and of record by Quadrangle (Offshore) Capital Partners II LP, Quadrangle (Offshore) Capital

Partners II-A LP and Quadrangle (Offshore) Select Partners II LP (collectively, "**Quadrangle Parent**").

- F. The Shareholders are parties to a shareholders agreement dated as of August 1, 2008, as amended and restated on December 17, 2009 (the "**Existing Shareholders Agreement**").
- G. The parties are entering into this Agreement to amend and restate the Existing Shareholders Agreement to provide for amended terms on which the affairs of the Company and OpCp shall be conducted.
- H. The parties intend this Agreement to be a unanimous shareholder agreement of the Company within the meaning of Section 108 of the OBCA.

FOR VALUE RECEIVED, the parties agree as follows:

ARTICLE 1 - INTERPRETATION

1.01 Definitions

In this Agreement:

- (a) "**Acknowledgment of Transferee of Shares**" means an acknowledgement in the form of Schedule E.
- (b) "**Additional Notice of Pre-Emptive Rights**" has the meaning given to it in Section 6.01(4).
- (c) "**Affiliate**" means a Person which, directly or indirectly, Controls, is Controlled by, or is under common Control with, another.
- (d) "**Agreement**" means this agreement, including any recitals and schedules to this agreement, as amended, supplemented or restated from time to time.
- (e) "**Annual Budget**" has the meaning given to it in Section 4.01(3).
- (f) "**Applicable Law**" in respect of any Person, property, transaction or event, means all present and future laws, statutes, regulations, treaties, judgments and decrees applicable to that Person, property, transaction or event and, whether or not having the force of law, all applicable official directives, rules, consents, approvals, authorizations, guidelines, orders and policies of any Governmental Authority having or purporting to have authority over that Person, property, transaction or event.
- (g) "**Arbitration Act**" means the *Arbitration Act 1991* (Ontario).
- (h) "**Arbitrator**" has the meaning given to it in Schedule D.

- (i) **"Arm's Length"** has the meaning given to it in the *Income Tax Act* (Canada) as in effect on the date hereof.
- (j) **"Articles"** means the articles of incorporation of the Company, as amended, restated or replaced from time to time in accordance with this Agreement.
- (k) **"Associate"** has the meaning given to that term in the OBCA as in effect on the date hereof.
- (l) **"Auditor"** means the auditor of the Company appointed by the Shareholders from time to time in accordance with this Agreement.
- (m) **"Board"** means the board of directors of the Company.
- (n) **"Business Day"** means any day other than a Saturday, a Sunday or a day on which (1) the principal Canadian bank of the Company is required or authorized to close in the City of Toronto or banks are closed for business in either New York City or Luxembourg; or (2) the principal offices of any party to this Agreement as to whom the definition of Business Day is being applied in any specific case are closed or become closed prior to 2:00 p.m. local time, whether in accordance with established company practice or by reason of unanticipated events, including adverse weather conditions.
- (o) **"Business Plan"** means the business plan of OpCo as prepared, updated and amended in accordance with Sections 4.01 and 4.02 and includes the Initial Business Plan.
- (p) **"Business Plan Update Date"** has the meaning given to it in Section 4.02.
- (q) **"By-laws"** means the by-laws of the Company attached to this Agreement as Schedule C, as amended, restated or replaced from time to time in accordance with this Agreement.
- (r) **"Capital Lease"** means, for any Person, a lease of any interest in any kind of property (whether real, personal or mixed) or asset by such Person as lessee that is, should be, or should have been, recorded as a "capital lease" on the balance sheet of such Person in accordance with GAAP.
- (s) **"CEO"** means the chief executive officer of the Company and OpCo.
- (t) **"Change in Law"** has the meaning given to it in Section 7.08.
- (u) **"Chairperson"** has the meaning given to it in Section 3.02(2).
- (v) **"Class B Shares"** has the meaning given to it in Recital A.
- (w) **"Common Shares"** has the meaning given to it in Recital A.

- (x) **"Confidential Information"** has the meaning given to it in Section 2.04(1)(a).
- (y) **"Control"** (including, with correlative meanings, the terms Controlled by and under common Control with) means the possession of the power, in law or in fact, to direct or cause the direction of the management and policies of a corporation whether through legal and beneficial ownership of a majority of voting securities of such corporation, by agreement or otherwise.
- (z) **"Costs and Expenses"** means, with respect to the Company and OpCo, all costs, expenses and charges of any kind including interest charges on borrowed funds, legal fees and disbursements.
- (aa) **"DAVE Nominee"** has the meaning given to it in Section 3.02(4)(a).
- (bb) **"Director"** means a director of the Company.
- (cc) **"Effective Date"** means August 1, 2008.
- (dd) **"Enterprise Value"** means the Fair Market Value of all the Company's Shares plus all of the Company's debt, less any cash and marketable securities, which as of December 31, 2009, was determined by the Board to be equal to \$282.5 million, calculated as set forth in Schedule F, and which shall be updated by the Board, based on a third party valuation, at least every two years (commencing on December 31, 2011).
- (ee) **"Excess Shares"** has the meaning given to it in Section 7.08.
- (ff) **"Executive Officer"** means the CEO, Chief Financial Officer or Chief Operating Officer of the Company and any other position of officer specifically referred to in the By-laws as being elected or appointed by the Board.
- (gg) **"Extraordinary Resolution"** means a resolution of the Shareholders approved by each of DAVE and Quadrangle.
- (hh) **"Fair Market Value"** of any Shares means the fair market value per Share of Shares of any class as relevant to such determination on any particular date determined in accordance with Section 8.03, and, unless the parties otherwise agree pursuant to Section 8.03(1) or such determination is made by an Arbitrator pursuant to Section 8.03(2)(i), confirmed by the Valuer as of the date of the closing of any transaction for which it is relevant, and for the purposes of this determination or confirmation **"Fair Market Value"** means the highest cash price available in an open and unrestricted market between informed and willing parties acting at Arm's Length and under no compulsion to act.
- (ii) **"First Public Offering"** means the first public offering of Shares by way of prospectus for which a final receipt is issued by a securities commission or other similar regulatory authority in Canada, or pursuant to an effective registration

statement under the Securities Act of 1933 of the United States of American, occurring after the Effective Date.

- (jj) **"GAAP"** means generally accepted accounting principles in effect in Canada including the accounting recommendations published in the Handbook of the Canadian Institute of Chartered Accountants.
- (kk) **"Governmental Authority"** means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any court and any government agency, board, commission, tribunal or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.
- (ll) **"Hedge Agreement"** means any and all transactions, agreements or documents now existing or hereafter entered into by any Person which provide for an interest rate, credit, commodity or equity swap, cap, floor, collar, forward foreign exchange transaction, currency swap, cross currency rate swap, currency option, or any combination of, or option with respect to, these or similar transactions, for the purpose of hedging exposure to fluctuations in interest or exchange rates, loan, credit exchange, security or currency valuations or commodity prices.
- (mm) **"Indebtedness"** of any Person means, without duplication, (i) all obligations of such Person, however incurred, including obligations for borrowed money; (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances, derivatives or other financial products; (iii) all obligations of such Person as a lessee under Capital Leases; (iv) all obligations or liabilities of others secured by a Lien on any asset of such Person, irrespective of whether such obligation or liability is assumed; (v) all obligations of such Person to pay the deferred purchase price of assets; (vi) all obligations of such Person owing under Hedge Agreements; and (vii) all obligations of such Person guaranteeing or intended to guarantee (whether directly or indirectly guaranteed, indemnified, endorsed, co-made, discounted, or sold with recourse) any obligation of any other Person that constitutes Indebtedness of such other Person under any of clauses (i) through (vi) above.
- (nn) **"Independent Director"** has the meaning given to it in Section 3.03(1).
- (oo) **"Individual Canadian"** means an individual Canadian within the meaning of Section 2 of the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada).
- (pp) **"Initial Business Plan"** has the meaning given to it in Section 4.01(1).
- (qq) **"Insolvency Proceedings"** by or against a Person means any voluntary or involuntary case or proceeding (including the filing of any notice) under Applicable Law in any jurisdiction, or any action taken pursuant to any

contractual right of a secured party under any instrument by which such Person is bound, in respect of the:

- (i) bankruptcy, liquidation, winding-up, dissolution or other permanent suspension of general operations of such Person;
 - (ii) composition, rescheduling, reorganization, arrangement or readjustment of, or other relief from, or stay of proceedings to enforce, all or a material part of the debts or obligations of such Person;
 - (iii) appointment of a trustee, receiver, receiver and manager, sequestrator, liquidator, administrator, custodian or other official for all or a material part of the assets of such Person; or
 - (iv) possession, foreclosure or retention, sale or other disposition of, or other proceedings to realize on the security of, all or a substantial part of the assets of such Person in the course of the enforcement of security over such assets.
- (rr) **"Intellectual Property"** means all patents and patent rights, industrial designs, trade-marks and trade-mark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, brand names, inventions, copyrights and copyright rights, computer software (other than off-the-shelf application software purchased in the ordinary course of business), processes, formulae, trade dress, business and product names, logos, slogans, trade secrets, industrial models, processes, designs, methodologies and related documentation, technical information, manufacturing, engineering and technical drawings, know-how and any pending applications for and registrations of patents, industrial designs, trade-marks, service marks and copyrights, including any goodwill connected with or symbolized by the foregoing.
- (ss) **"Interested Director"** has the meaning given to it in Section 3.04(4).
- (tt) **"Interested Matter"** has the meaning given to it in Section 3.04(4).
- (uu) **"Interested Party"** means (i) any Shareholder or any Affiliate or Associate of a Shareholder, (ii) any director, officer or employee of a Shareholder or any of its Affiliates or Associates or any Associate of such director, officer or employee or (iii) any Person who has, or whose Affiliate or Associate has, any relationship with a Shareholder that might be considered to be material to such Person.
- (vv) **"Lien"** means any lien, mortgage, charge, hypothec, encumbrance, security interest, pledge, hypothecation, deposit arrangement, priority, conditional sale agreement, other title retention agreement, lease intended as security or which secures payment or performance of an obligation, or other security agreement or instrument.

- (ww) **"Mandatory Funding"** means a funding to be made by way of a sale by the Company of Offered Treasury Shares in order to provide for a capital funding for OpCo designated as a "Mandatory Funding" in the most recent Annual Budget as approved by the Board, as being required to fund the development of OpCo's Wireless Business.
- (xx) **"Material Agreement"** means (i) any contract or other legally binding commitment, or series of related contracts or legally binding commitments, written or oral, entered into or renewed after the date hereof involving payments by the Company or OpCo, or any combination thereof, in excess of an amount equal to 5% of the Company's Enterprise Value in the aggregate over its term, or (ii) involving the transfer of any of the Target Licences, or any other transfer of assets having a value in excess of 5% of the Company's Enterprise Value.
- (yy) **"Nominating Committee"** has the meaning given to it in Section 3.03(3).
- (zz) **"Non-Resident"** means a person who is not a "resident Canadian" within the meaning of the OBCA, and a "Canadian" within the meaning of the regulations promulgated under the *Telecommunications Act* (Canada).
- (aaa) **"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.
- (bbb) **"Notice to Arbitrate"** has the meaning given to it in Schedule D.
- (ccc) **"OBCA"** means the *Business Corporations Act*, R.S.O. 1990 c. B16.
- (ddd) **"Ownership Interest"** means the direct beneficial ownership, or the ownership through a Subsidiary Shareholder, of a percentage of Shares, calculated without regard to conversion rights attaching to convertible securities, options or warrants until such time as such securities are converted, or such options or warrants are exercised.
- (eee) **"Parent"** has the meaning given to it in Section 2.03(2)(a).
- (fff) **"Permitted Lien"** means (i) a Lien granted by DAVE over Shares of the Company to National Bank, New York Branch related exclusively to a letter of credit issued by National Bank to Industry Canada for the account of OpCo in March, 2008, including security given by the Company and by OpCo in connection therewith, (ii) a Lien over Shares, or shares of a Shareholder, granted by a Shareholder, or by a Parent, to a bank or other financial institution whereby any realization on the security of such Lien would not result in a loss of Control by such Shareholder or by such Parent, as applicable, or (iii) to the extent any realization on the security of any Lien would result in a loss of Control by such Shareholder or by such Parent, as applicable, such Lien shall constitute a Permitted Lien only if the bank or other financial institution has entered into an acknowledgment with the parties to this Agreement, in form satisfactory to each

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of DAVE and Quadrangle, acting reasonably, that any realization on the security of such Lien shall only be made in compliance with this Agreement.

(ggg) **“Permitted Purchaser”** means at the time that any offer to sell Shares is made (the **“Relevant Time”**), any Person:

- (i) who at the Relevant Time is:
 - (A) a Shareholder; or
 - (B) a Permitted Transferee;
 - (C) for the purposes of Section 6.01(7) and Section 7.08(1)(b) only, any other Person who is not a Strategic Competitor; or
- (ii) in the case of the sale of Shares by DAVE, and other than a sale made pursuant to Section 7.06 or Section 7.07, in respect of which Quadrangle shall have consented to the sale of such Shares;
- (iii) in the case of the sale of Shares by Quadrangle, and other than a sale made pursuant to Section 7.06 or Section 7.07, in respect of which DAVE shall have consented to the sale of such Shares; and
- (iv) in the case of each of (i), (ii) and (iii) of this definition, to whom the sale of the applicable Shares would not be prohibited by Applicable Law and in respect of which sale any required Regulatory Approval, if any, has been obtained or could reasonably be expected to be obtained on terms and conditions reasonably acceptable to the purchaser, the vendor and OpCo;

provided that where Shares are to be purchased by one Person (an **“Agent”**) (whether as agent, nominee, trustee, broker or otherwise), for the benefit of or on behalf of another Person (the **“Principal”**), for the purpose of determining whether the Person purchasing such Shares is a Permitted Transferee, regard shall be had to both the Agent and the Principal.

(hhh) **“Permitted Transferee”** has the meaning given to it in Section 7.04(1).

(iii) **“Person”** means any natural person, sole proprietorship, partnership, body corporate, corporation, company, trust, joint venture, any Governmental Authority or any incorporated or unincorporated entity or association of any nature.

(ijj) **“Plan Period”** has the meaning given to it in Section 4.01(2)(b).

(kkk) **“Pro Rata Proportion”** of any Shareholder at any time means the percentage that the number of Shares that the Shareholder owns at that time is of the total number of issued and outstanding Shares.

- (lll) **"Quadrangle Nominee"** has the meaning given to it in Section 3.02(4)(a).
- (mmm) **"Recipient"** means, with respect to Confidential Information, a Person identified in Section 2.04(1)(b).
- (nnn) **"Regulatory Approval"** in respect of any transaction or proposed transaction means all material approvals, rulings, authorizations, permissions, filings, consents, orders and sanctions (including the lapse without objection of a prescribed time under a statute, regulation, by-law, rule or other legislative or regulatory requirement that states that a transaction may be implemented if a prescribed time elapses following the giving or filing of notice without an objection being made) required to be obtained from or made to any Governmental Authority having jurisdiction or authority over any of the parties to such transaction to permit the completion of such transaction, including those required under the *Competition Act* (Canada), the *Investment Canada Act* (Canada), the *Telecommunications Act* (Canada), the *Radiocommunication Act* (Canada) and under the Target Licences.
- (ooo) **"Sale Closing Date"** means the date on which any sale of Shares permitted under this Agreement is to be completed in accordance with the relevant provision of this Agreement or as otherwise agreed between the parties.
- (ppp) **"Share"** means any of the shares in the capital of the Company.
- (qqq) **"Shareholder"** means a Person who owns Shares.
- (rrr) **"Shareholder Nominee"** means any of the DAVE Nominees or the Quadrangle Nominees.
- (sss) **"Special Board Approval"** means the approval by a majority of the directors who are not Interested Directors with respect to the matters provided in Section 3.04(4), which majority must include, for any matter in which all of Quadrangle's Nominees are not Interested Directors, at least one Quadrangle Nominee, for so long as Quadrangle has an Ownership Interest of not less than 9%, and for any matter in which all of DAVE's Nominees are not Interested Directors, at least one DAVE Nominee, for so long as DAVE has an Ownership Interest of not less than 9%.
- (ttt) **"Strategic Competitor"**, with reference to the Company or OpCo, means a Person who is engaged in a Wireless Business where the sale of services in respect of such Wireless Business equals at least 10% of the total annual revenue of such Person and its Affiliates for the most recently completed fiscal year determined on a consolidated basis.
- (uuu) **"Subscription Agreements"** means (i) a subscription agreement dated August 1, 2008 pursuant to which DAVE agrees with the Company to purchase Shares, and (ii) a subscription agreement dated August 1, 2008 pursuant to which Quadrangle agrees with the Company to purchase Shares.

- (vvv) **"Subscription Date"** has the meaning given to it in Section 6.01(2)(c).
- (www) **"Subscription Period"** has the meaning given to it in Section 6.01(3).
- (xxx) **"Subsidiary"** means a subsidiary body corporate within the meaning of the OBCA.
- (yyy) **"Subsidiary Shareholder"** has the meaning given to it in Section 2.03(2)(a).
- (zzz) **"Target Licence"** means a licence obtained by OpCo in the Industry Canada auction for spectrum licences in the 2 GHZ range which commenced on May 27, 2008.
- (aaaa) **"transfer"**, when applied to Shares, has the meaning given to it in Section 7.01.
- (bbbb) **"Valuer"** has the meaning given to it in Section 8.03(2)(a).
- (cccc) **"Vendor's Valuer"** has the meaning given to it in Section 8.03(2)(b).
- (dddd) **"Wholly-Owned Subsidiary"** means a Subsidiary of another body corporate, all of the voting securities of which are owned by such other body corporate.
- (eeee) **"Wireless Business"** means the business of providing two-way wireless voice communications and voice telephony services in Canada.

1.02 Headings and Table of Contents

The division of this Agreement into sections, the insertion of headings and the provision of a table of contents are for convenience of reference only and are not to affect the construction or interpretation of this Agreement.

1.03 References

Unless otherwise specified, references in this Agreement to Sections and Schedules are to sections of, and schedules to, this Agreement.

1.04 Number and Gender; extended meanings

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" shall be interpreted to mean "including without limitation".

1.05 Time of Day

Unless otherwise specified, references to time of day or date mean the local time or date in the City of Toronto, Ontario.

1.06 Business Day

If under this Agreement any payment or calculation is to be made or any other action is to be taken, on or as of a day which is not a Business Day, that payment or calculation is to be made, and that other action is to be taken, as applicable, on or as of the next day that is a Business Day. Any extension of time will be included for the purposes of computation of interest.

1.07 Governing Law

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.

1.08 Conflict

If there is a conflict between the provisions of this Agreement and the Articles or By-laws, the provisions of this Agreement shall prevail to the extent permitted by the OBCA and other Applicable Law. If there is a conflict between any provision of this Agreement and any other document contemplated by or delivered under or in connection with this Agreement, the relevant provision of this Agreement shall prevail.

1.09 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.

1.10 Time of Essence

For every provision of this Agreement, time is of the essence.

1.11 Statutory References

Unless otherwise provided herein, each reference to an enactment is deemed to be a reference to that enactment, and to the regulations made under that enactment, as amended or re-enacted from time to time.

1.12 Schedules

The following Schedules are attached to and form part of this Agreement:

- | | | |
|------------|---|--------------------------------------|
| Schedule A | - | Articles of Amendment of the Company |
| Schedule B | - | Shareholdings |
| Schedule C | - | By-laws of the Company |

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Schedule D	-	Arbitration Procedures
Schedule E	-	Acknowledgement of Transferees of Shares
Schedule F	-	Calculation of Enterprise Value

1.13 Entire Agreement

This Agreement, and all documents contemplated by or delivered under or in connection with this Agreement, constitute the entire agreement between the parties with respect to the subject matter thereof and supersede all prior agreements, negotiations, discussions, undertakings, representations, warranties and understandings, whether written or oral, with respect to the subject matter thereof, including the letter agreement between DAVE, Quadrangle Capital Partners II LP and VCVC Orange II LLC dated March 6, 2008 and the Investor Agreement between DAVE, Quadrangle Partners II LP, the Company and OpCo dated May 26, 2008.

1.14 GAAP

Unless otherwise specified, all financial statements to be prepared in respect of any accounting period are to be prepared in accordance with GAAP applied on a basis consistent with that of the prior accounting period.

1.15 Unanimous Shareholder Agreement

This Agreement is intended to be a unanimous shareholder agreement of the Company within the meaning of Section 108 of the OBCA. To the extent that this Agreement specifies that any matter may only be, or shall be, dealt with or approved by or requires action by a Shareholder or the Shareholders, the powers of the directors of the Company to manage the business and affairs of the Company with respect to those matters are correspondingly restricted.

ARTICLE 2- REPRESENTATIONS, WARRANTIES AND COVENANTS

2.01 Shareholders

Each Shareholder severally represents and warrants to the other parties that:

- (a) it has been duly incorporated and is validly subsisting as a corporation, and in the case of Quadrangle, a *société à responsabilité limitée*, under the laws of its jurisdiction of incorporation;
- (b) it has the corporate power to own the Shares owned by it and to enter into and to perform its obligations under this Agreement;
- (c) it owns beneficially and of record the Shares set out opposite its name in Schedule B;
- (d) the Shares set out opposite its name in Schedule B are held by it free and clear of all Liens (other than Permitted Liens) or adverse claims of any other Person and

no Person, other than the parties pursuant to the provisions of this Agreement, has any agreement or any option or right capable of becoming an agreement for the acquisition of any such Shares;

- (e) this Agreement has been duly authorized, executed and delivered by it and constitutes a legal, valid and binding obligation enforceable against it in accordance with its terms subject, as to enforcement, to Applicable Law affecting the rights of creditors generally and to general principles of equity and the availability of equitable remedies which are in the discretion of the court;
- (f) the execution, delivery and performance of this Agreement will not violate any material provision of any indenture, agreement or other instrument to which it is a party or by which it is bound or conflict with, result in or constitute a material breach of, or constitute a material default under, any such indenture, agreement or other instrument or result in the creation or imposition of any Lien on any of its or assets.

In the case of a Shareholder who is an individual, such Shareholder represents and warrants to the other parties only the matters set out in paragraphs (c), (d), (e) and (f).

2.02 OpCo

(1) Shareholdings in OpCo. The Company represents and warrants to the other parties hereto that it owns, beneficially and of record, all the issued and outstanding shares in the capital of OpCo. The Company represents and warrants that it has not entered into any contracts or agreements prior to the date hereof except as described in part (i) of the definition of Permitted Lien. The Company acknowledges that under Section 3.06(i), any sale, lease, exchange, transfer, encumbrance or other disposition of such shares of OpCo owned by the Company may require authorization by Special Board Approval.

(2) Control Over OpCo. The Company shall cause OpCo to take or cause to be taken all such actions as may reasonably be required to give effect to the intent of this Agreement.

(3) Unanimous Shareholder Declaration. Without limiting Section 2.02(2), immediately after the execution and delivery of this Agreement, the Company, in its capacity as sole shareholder of OpCo, shall make a written declaration in accordance with subsection 108(3) of the OBCA in form and substance satisfactory to the Shareholders. Such written declaration shall (x) restrict the powers of the directors of OpCo to manage its business and affairs in the same manner as this Agreement restricts the powers of the Directors to manage the business and affairs of the Company, (y) provide that the executive officers of OpCo shall be the same as the Executive Officers, and (z) apply to OpCo terms and conditions of substantially the same tenor and effect as those contained in Article 5. The Company shall not amend, waive, vary, rescind or terminate such written declaration, and the Company shall not permit OpCo to, and OpCo shall not, amend, waive, vary, rescind or terminate such written declaration, unless so authorized by Extraordinary Resolution.

2.03 Covenants of the Shareholders and Others

(1) Voting. Each of the Shareholders agrees that (1) it will vote or cause to be voted all the Shares owned by it and otherwise act, and in all other respects use its reasonable best efforts and take all such steps as may be within its power, so as to comply with, and to cause the Company to comply with, and act in a manner consistent with, the provisions of this Agreement and so as to implement this Agreement; and (2) if any Shareholder Nominee nominated by it refuses or fails to exercise his or her discretion in a manner consistent with this Agreement, notwithstanding anything to the contrary in this Agreement, such Shareholder shall take all necessary actions to remove such Shareholder Nominee as a Director and the other Shareholders shall co-operate in such action.

(2) Shareholders and Subsidiaries.

- (a) Each party to this Agreement (each, a “Parent”), covenants and agrees with each other party to this Agreement that it shall cause, directly or through its Affiliates, each of its Subsidiaries and Controlled Affiliates (whether now or hereafter existing) that may or at any time own Shares (each a “Subsidiary Shareholder”), to perform the Subsidiary Shareholder’s obligations under and otherwise act in accordance with this Agreement. A Parent shall be jointly and severally liable, as principal obligor and not as a guarantor, with any such Subsidiary Shareholder for the due performance by the Subsidiary Shareholder of its obligations under this Agreement. The obligation of each Parent hereunder is unconditional and any party hereto may obtain the enforcement of the obligations of such Parent without any requirement that such party first proceed against the Parent’s Subsidiary Shareholder; and each Parent hereby waives the benefit of any defences available to a guarantor or other surety in respect of such obligation.
- (b) Each Shareholder and each Parent covenants and agrees with the other parties that:
 - (i) it shall retain direct or indirect Control of any Subsidiary Shareholder;
 - (ii) until completion of the First Public Offering, it shall not, and shall not permit any Subsidiary Shareholder to, offer any of its securities for sale in a manner which requires the filing of any offering document for such offering, or which will require the filing of any subsequent continuous disclosure documents, with any securities regulatory authority or stock exchange;
 - (iii) it shall not grant any Lien (other than Permitted Liens) over the securities of any Subsidiary Shareholder which, if realized upon, would cause it to lose Control of such Subsidiary Shareholder;
 - (iv) it shall not permit the sale of any of its securities, or the securities of any Subsidiary Shareholder, to be made to a Strategic Competitor, and shall cause contractual restrictions to be placed upon each purchaser against the re-sale of any of its securities, and of securities of any Subsidiary

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Shareholder, to a Strategic Competitor (provided for greater certainty that nothing herein shall prevent a Strategic Competitor from purchasing securities on any public market); and

- (v) it shall not agree to be or be the subject of or a party to any transaction whereby or as a consequence of which Shares or voting interests therein would be or are acquired, directly or indirectly through a chain of ownership, by a Strategic Competitor of the Company or OpCo.
- (c) Without limiting Section 2.03(2)(b), neither the Board nor the Company shall recognize any direction, instruction or notice from any Person or group of Persons who acquires, directly or indirectly, Control of a Subsidiary Shareholder as a result of a transfer or acquisition of securities of such Subsidiary Shareholder or securities or other voting interests of any other Person resulting in a breach of this Section 2.03(2).
- (d) As soon as practicable after September 2, 2008, and in any event by September 15, 2008, the Company and OpCo shall cause to be removed all registrations of all security against the Company and OpCo put in place in respect of the Lien described in part (i) of the definition of Permitted Lien.

2.04 Confidentiality

- (1) Defined Terms. For the purposes of this Section 2.04:
 - (a) “**Confidential Information**” means all oral, written and/or tangible information, documentation, knowledge, data or know-how that is owned, acquired or controlled by, or relating to:
 - (i) the Company or OpCo, or any of their Subsidiaries, or acquired or developed for the benefit of the Company, OpCo, or any of their Subsidiaries, or
 - (ii) a Shareholder and disclosed to another Shareholder in connection with the business and affairs of the Company or OpCo or the exercise of any rights of a Shareholder under this Agreement,

(each of the Company, OpCo and such Shareholder being an “Owner”), regardless of its form, that is confidential, proprietary and/or not generally available to the public, including information relating in whole or in part to present and future products, services, business plans and strategies, marketing ideas and concepts (including those with respect to unannounced products and services), unpatented inventions, software, pricing, financial data, product enhancement information, business plans, marketing plans, sales strategies, customer information or technical and business information, supplier and customer lists, product information, trade secrets and computer software, but excluding any information:

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- (A) that is already known to the Recipient other than as a result of disclosure made to such Recipient related to the acquisition of a shareholding interest in the Company;
- (B) that is or becomes part of the public domain by publication or otherwise without any breach of this Agreement;
- (C) that has been published or is otherwise in the public knowledge or is generally known to the public at the time of its disclosure to the Recipient or that is obtained after the date of this Agreement from another source without any breach of this Agreement; or
- (D) that was not obtained from another source and that can be demonstrated by the Recipient to have been known or available to or independently developed by the Recipient before disclosure to the Recipient.

For greater certainty, this Agreement and the unanimous shareholder declaration of OpCo referred to in Section 2.02(3) constitute Confidential Information.

- (b) “**Recipient**” of Confidential Information means any Person that is a party to or bound by this Agreement and that acquires, receives or otherwise becomes aware of Confidential Information.

(2) Prohibited Disclosure. From and after the date hereof, each Recipient shall, and shall cause its Affiliates and Associates to, keep confidential and not disclose to any Person any Confidential Information except as permitted under Section 2.04(3).

- (3) Permitted Disclosure. A Recipient may disclose Confidential Information:
 - (i) for the purpose of advancing the business or interests of the Company or OpCo including for the purposes of obtaining all approvals for the operation by OpCo of its Wireless Business;
 - (ii) to those of its, or its Associates’ or Affiliates’, directors, employees, agents or advisors who either are bound by the duties of their employment or engagement to maintain the confidentiality of the Confidential Information or enter into a confidentiality agreement in a form reasonably acceptable to the applicable Owner;
 - (iii) as may be required of the Recipient under Applicable Laws, subject to use of reasonable best efforts to prevent or withhold, or minimize, disclosure pursuant to such Applicable Laws, and subject to providing the Company, to the extent not prohibited under Applicable Law, with prompt notice prior to the time of such disclosure in order to permit the Company to seek an appropriate protective order;

- (iv) as may be necessary to describe the basis of the transaction for the acquisition of a shareholding interest in the Company and the names of the parties involved, as part of the promotional materials of a Shareholder, or as may be necessary to provide reports to the shareholders or other equity participants of a Shareholder who are subject to confidentiality restrictions with respect to the information so provided, in which event the Recipient shall be responsible for enforcing compliance by such shareholders or other equity recipients with the confidentiality restrictions to which they are subject, and liable for the default of such shareholders or other equity participants;
- (v) to any Person authorized by the applicable Owner to receive Confidential Information, provided such Person is bound by a duty of confidentiality to such Owner;
- (vi) to any Person to whom such disclosure is required in order for the Recipient to defend or prosecute successfully an action, claim or proceeding to which the Recipient is a party; and
- (vii) to any Person to whom disclosure is required or requested to be made as contemplated by Section 2.04(5).

(4) Treatment of Confidential Information. Each Recipient shall use at least the same degree of care in maintaining the confidentiality of any Confidential Information in its possession or under its control as it uses in maintaining the confidentiality of its own confidential information of comparable nature and importance, but in no event with less care than is reasonable given the nature of the Confidential Information.

(5) Legal Compulsion. A Recipient (and its Affiliates and Associates) may disclose Confidential Information if so requested or required by any Governmental Authority of competent jurisdiction (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process) and if at the time of such request or requirement the Recipient is reasonably satisfied (whether on the basis of express or implied undertakings or other reliable assurances, established administrative practice or requirements imposed by Applicable law) that the recipient of such Confidential Information will be required to maintain such Confidential Information in confidence.

(6) Remedies for Breach. Each party acknowledges that a breach or threatened breach of its obligations under this Section 2.04 to any Owner would result in irreparable harm to such Owner which could not be calculated or adequately compensated by recovery of damages alone. Each party therefore agrees that any Owner whose Confidential Information a Recipient discloses or threatens to disclose in breach of this Agreement shall be entitled to interim or permanent injunctive relief, specific performance and such other equitable remedies against such Recipient (or its Affiliates or Associates) to restrain or remedy such breach.

2.05 Covenants of the Company and OpCo

Each of the Company and OpCo, by the execution of this Agreement, hereby acknowledges that it has actual notice of the terms hereof and hereby covenants with each of the other parties that it will at all times prior to the termination of this Agreement be governed by this Agreement in conducting its business and affairs and shall do or cause to be done all such acts, matters and things as may from time to time be necessary or appropriate to the carrying out of the terms and intent hereof.

2.06 Regulatory Requirements

In the event that Industry Canada or the Canadian Radio-television and Telecommunications Commission (each a "Regulator") advises the Company or OpCo that the Company and/or OpCo does not comply with the Canadian ownership and control requirements of the Telecommunications Act or the Radiocommunication Act, or the regulations thereunder, or of the Target Licences, the parties shall undertake best efforts and work together in good faith to satisfy the Regulator that the Company and OpCo meet applicable Canadian ownership and control requirements, including effecting such changes as may be necessary so as to ensure compliance with applicable Canadian ownership and control requirements, while preserving for each Shareholder the governance and other benefits to the maximum extent possible as contemplated herein.

ARTICLE 3- CORPORATE GOVERNANCE

3.01 Board of Directors: General

(1) Authority and Independence. The Board shall have overall responsibility for managing and supervising the management of the business and affairs of the Company; and the power and authority of the Directors shall be subject only to such restrictions as are imposed by Applicable Law and by this Agreement. Except as expressly restricted herein, the power, authority and discretion of the Board shall be exercised independently from the Shareholders as if it were a board of directors of a publicly held corporation, with a view to the best interests of the Company as a whole, notwithstanding the fact that certain of the Directors are Shareholder Nominees.

(2) Information and Access: Business Conflicts. In order to resolve as expeditiously as possible, and in a manner that will promote the best interests of the Company, any conflicts of business objectives or interests between the Company or OpCo and any Shareholder (a "Conflicted Shareholder"), the Board may retain, at the expense of the Company or OpCo, technical and other advisors to assist in such resolution, and the Chairperson of the Board or the Board as a whole shall have the right to consult with the Executive Officers concerning the matters giving rise to the conflict in the absence of any Shareholder Nominee that is an Interested Party of the Conflicted Shareholder. Any such conflict shall be resolved by the Board in the manner required by the OBCA and in accordance with Section 3.01(1).

3.02 Number and Election of Directors

(1) Composition and Term. The Board shall consist of ten Directors, unless such number is increased pursuant to Section 6.01(11), and recognizing that the Board must consist of a smaller number of Directors until the Independent Directors are all initially appointed pursuant to Section 3.03(3). Each Director shall hold office until the next annual meeting of the Shareholders after his or her election.

(2) Chairperson. The Board shall have a chairperson (“**Chairperson**”) who shall be (i) elected annually by the affirmative vote of a majority of the Directors, and (ii) an Individual Canadian who is not a nominee of a Shareholder who is a Non-Resident. The first Chairperson will be John Bitove. The Chairperson shall be responsible for co-ordinating such matters as:

- (a) introducing proposals to the Board on matters that require Board approval;
- (b) the agenda for Board meetings;
- (c) convening and presiding at Board meetings;
- (d) presiding at meetings of Shareholders; and
- (e) circulating minutes for approval by the Directors.

In performing the co-ordination function of the Chairperson set out above, the Chairperson shall endeavour to accommodate the reasonable participation of the other Directors in the activities of the Board, including through accommodating the right of any Director to add items to the agenda for any Board meeting as provided in Section 3.04(1).

The Chairperson shall have a tie-breaking or casting vote in all Board vote matters and, except as may be conferred upon him or her by resolution of the Directors related to the execution of contracts approved by the Board, or in respect of the negotiation and execution of contracts within parameters set by the Board, or except as conferred by him or her in the By-laws, shall not have the authority to bind the Company.

(3) Compensation. No Shareholder Nominee who is an employee or controlling shareholder of any of DAVE, Quadrangle or their respective affiliates shall receive compensation for his or her services as a Director.

(4) Election and Qualification of Directors.

- (a) Elections. All Directors shall be elected or confirmed in office at an annual general meeting or special meeting of Shareholders. DAVE shall have the right to nominate and have elected four nominees to the Board (each, a “**DAVE Nominee**”), and Quadrangle shall have the right to nominate and have elected three nominees to the Board (each, a “**Quadrangle Nominee**”). Subject to Section 3.02(8), and initially to Section 3.03(3), three Directors shall be Independent Directors. Subject to compliance with Section 3.02(7), all Shareholders shall vote their Shares at meetings of the Shareholders and act in all

other respects in connection with the corporate proceedings of the Company to ensure that the DAVE Nominees, the Quadrangle Nominees and, if applicable, the nominees of Permitted Purchasers who acquire the right to nominate one or more Directors pursuant to Section 6.01(11), are elected and maintained in office from time to time as Directors.

- (b) Residency and Citizenship. Unless otherwise permitted by Applicable Law, the maximum number of Directors who are Non-Residents shall not exceed one less than half of the Directors. Quadrangle shall have the exclusive right to nominate three Non-Residents as Quadrangle Nominees unless it expressly waives such right, which it may do with respect to one or more of such Quadrangle Nominees.

(5) Committees of Directors. The Board may appoint from among its members and maintain an audit committee, corporate governance committee and compensation committee and, subject to the following sentence, such other committees as the Board may approve from time to time and shall delegate to each such committee appropriate powers within its terms of reference to the extent permitted by this Agreement and by Applicable Law. The Board shall not appoint an executive committee, it being the intention of the Shareholders and the Company that such matters as would be customarily delegated to an executive committee shall be the responsibility of the full Board. Each such committee shall have three members and shall be chaired either by the Chairperson of the Company or by an Independent Director. Until otherwise agreed between DAVE and Quadrangle, the members of each committee shall be one of the three Independent Directors, one DAVE Nominee and one Quadrangle Nominee. No business shall be conducted, or shall continue, at any meeting of any committee unless a majority of the members present, and continuing to be present, are individual Canadians (within the meaning of section 2 of the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada) who are not persons who are Interested Parties in relation to any Shareholder who is a Non-Resident.

(6) Vacancies of Shareholder Nominees. If any vacancy on the Board occurs from the retirement, resignation, death or removal of a DAVE Nominee, a Quadrangle Nominee, if applicable, a nominee of a Permitted Purchaser who acquires the right to nominate one or more Directors pursuant to Section 6.01(11), or an Independent Director, as the case may be, a replacement for such DAVE Nominee, Quadrangle Nominee or nominee of such Permitted Purchaser may be nominated by DAVE, Quadrangle or such Permitted Purchaser, respectively, or the Nominating Committee shall nominate a replacement Independent Director. Upon the occurrence of such a vacancy, the Directors shall call a special meeting of Shareholders, or each Shareholder shall sign a unanimous shareholders resolution, and each Shareholder agrees to exercise its voting rights at any such meeting, or sign any such unanimous shareholders resolution, in such manner as may be required to elect a replacement for the DAVE Nominee, Quadrangle Nominee, nominee of such Permitted Purchaser or Independent Director in the manner aforesaid. The newly elected DAVE Nominee, Quadrangle Nominee, nominee of such Permitted Purchaser or Independent Director shall serve the balance of the term of his or her predecessor.

(7) Removal of Shareholder Nominees.

- (a) DAVE may requisition a meeting of Shareholders, or the execution of a unanimous shareholders resolution, to remove any DAVE Nominee from the Board. Quadrangle may requisition a meeting of Shareholders, or the execution of a unanimous shareholders resolution, to remove any Quadrangle Nominee from the Board. A Permitted Purchaser who acquires the right to nominate one or more Directors pursuant to Section 6.01(11) may requisition a meeting of Shareholders, or the execution of a unanimous shareholder resolution, to remove such Permitted Purchaser's nominee from the Board.
- (b) No DAVE Nominee may be removed from the Board unless such removal is first approved at a meeting of Shareholders at which DAVE votes in favour, or unless DAVE signs a unanimous shareholders resolution in favour of such removal, no Quadrangle Nominee may be removed unless such removal is first approved at a meeting of Shareholders at which Quadrangle votes in favour or unless Quadrangle signs a unanimous shareholder resolution in favour of such removal, and no Permitted Purchaser nominee may be removed unless such removal is first approved at a meeting of Shareholders at which such Permitted Purchaser votes in favour or unless such Permitted Purchaser signs a unanimous shareholder resolution in favour of such removal.

(8) Change in Law. If, as a result of any Change in Law, (A) Non-Resident Shareholders would be permitted to nominate and elect a greater number of Directors than herein provided, such Shareholders shall thereafter be entitled to nominate and elect such number of Directors as is equal to the lesser of (i) the number of Directors that may then be elected by NonResident Shareholders in accordance with Applicable Law and (ii) such number as reflects such NonResident Shareholders' pro rata proportion of the aggregate Shares of the Company, and in such event, the number of Independent Directors shall be decreased; or (B) any amendments to this Agreement mandated by the CRTC pursuant to the Telecom Decision 2010264 dated May 7, 2010, shall no longer be required, the parties shall amend and restate this Agreement to revert to the terms of the Existing Shareholders Agreement such that the mandated amendments, as applicable, shall no longer be in effect.

3.03 Independent Directors

(1) Qualifications. "Independent Director" means any Director who is not a Shareholder Nominee, who has been designated as a candidate for the office of Independent Director in accordance with Section 3.03(3), who is qualified to act as a director under Applicable Law, and who at the time of his or her nomination:

- (a) is an individual in good standing in the business community with experience as a company director or other relevant experience;
- (b) is not, and has not been within the last three years prior to being nominated, employed (other than as an Independent Director or a director or officer of the Company or OpCo) by an Interested Party;

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- (c) is not an Interested Party;
- (d) is an Individual Canadian; and
- (e) has no other relationship (other than as a Director or as a director of the Company or OpCo) or characteristics that could reasonably be expected to compromise his or her independence in fact from all Interested Parties;

provided that one, but not more than one, Independent Director may be, or may within the last three years prior to being nominated have been, an officer of the Company or OpCo or of a Shareholder who is not a Non-Resident.

Notwithstanding the foregoing, no action by a Director designated as an Independent Director shall be invalid by reason only that such Director did not meet the foregoing qualifications at the time such action was taken.

(2) Organizational Meeting. As soon as practicable following the Closing, the Shareholders will, if necessary, convene a special Shareholders' meeting to elect the Directors.

(3) Independent Directors: Nominations and Challenges. Not later than 60 days before each meeting of Shareholders at which Independent Directors are to be elected, either of DAVE or Quadrangle may request the formation of a nominating committee to propose nominees for the Independent Directors to be elected at such meeting. Such nominating committee, once proposed, shall meet within 10 days of the date of proposal by either DAVE or Quadrangle. The members of such nominating committee shall be one director who is a DAVE Nominee (designated by DAVE), one director who is a Quadrangle Nominee (designated by Quadrangle) and each of the Independent Directors then in office. Paul Godfrey and John Barnett were each nominated by DAVE and have been elected as the first and third, respectively, Independent Directors. Michael Neuman was nominated by Quadrangle and has been elected as the second Independent Director. The nominating committee as so selected for each subsequent nomination (the "Nominating Committee") shall meet and shall select, by majority vote, within 10 days of its first meeting, a slate of nominees of Independent Directors to be elected at the next meeting of Shareholders at which Directors are to be elected. Once a Nominating Committee is formed, each member of the Nominating Committee shall take part in, and shall vote on, the selection of each nominee for the position of Independent Director. In the event that one or more Independent Directors are not present at a meeting of the Nominating Committee, and a vote on a matter being considered by the Nominating Committee results in a tie, the member who is a DAVE Nominee shall cast the tie-breaking vote. No business shall be conducted, or shall continue, at any meeting of a Nominating Committee unless a majority of the members present, and continuing to be present, are individual Canadians (within the meaning of section 2 of the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada)) who are not persons who are Interested Parties in relation to any Shareholder who is a Non-Resident. The Nominating Committee shall report to each of DAVE and Quadrangle as to its proposed nominees of Independent Directors, providing such information in reasonable detail as to the identity and background of each individual as will enable DAVE and Quadrangle to determine whether such individual meets the qualifications referred to in Section 3.03(1). During the 10 days following

the date on which such notification is received, either DAVE or Quadrangle shall have the right and opportunity to interview each proposed nominee, to examine his or her credentials and to challenge, acting reasonably and in good faith, the proposed nomination on the basis that the proposed nominee does not meet all the qualifications referred to in Section 3.03(1). Upon such challenge being made in a timely manner, reasonably and in good faith, the proposed nomination shall be withdrawn and the Nominating Committee shall propose a new nominee. Any such challenge shall be presumed to be made reasonably and in good faith, but such presumption may be rebutted by satisfactory evidence to the contrary accepted as such, if required, by an Arbitrator in accordance with Article 9 or by a court of competent jurisdiction.

(4) Voting for Independent Directors. Subject to the right to challenge a nominee as set forth in Section 3.03(3), all Shareholders shall vote all such Shares to elect as Independent Directors the nominees selected by the Nominating Committee.

(5) Removal of Independent Directors. Except as provided in Section 3.03(3), no Independent Director may be removed from office except by a majority vote of the directors (excluding the director whose removal is being contemplated) held at a meeting at which the quorum provisions set out in Section 3.04(2) are met. An Independent Director who fails at any time to meet the requirements set forth in Section 3.03(1) shall forthwith resign from the Board and, if he or she fails to do so, the Shareholders shall cooperate with each other in convening as soon as practicable a meeting of the Nominating Committee to select a new nominee, and a Shareholder meeting to effect, and at such meeting shall vote to effect, the removal of such Director and the election of a new Independent Director.

3.04 Meetings of Directors

(1) General. The Board shall hold regular meetings no less frequently than once each quarter. The Board may hold meetings in Canada or in the United States of America, provided that the Shareholders and the Company shall endeavour to ensure that a majority of the meetings of the Board in each calendar year shall be held in Canada. Any Director may requisition a directors' meeting in the manner provided in the By-laws of the Company. Any Director may also add items to the agenda for any director's meeting. At each meeting of the Board, the Executive Officers shall report to the Board as directed by the Board from time to time.

(2) Quorum. In addition to any requirements under Applicable Law, a quorum for meetings of the Board, including the re-convened portion of any adjourned meeting of the Board, shall be five of the Directors then in office, including one DAVE Nominee and one Quadrangle Nominee, and at least as many nominees of all Shareholders who are not Non-Residents as of all Shareholders who are Non-Residents. No business shall be conducted, or shall continue, at any meeting of the Board, including the re-convened portion of any adjourned meeting of the Board, if and when a quorum ceases to exist or unless a majority of the members present and continuing to be present are Individual Canadians who are not persons who are Interested Parties in relation to, or nominees of, any Shareholder who is a Non-Resident. Notwithstanding the foregoing, if more than three of the Directors then in office are Interested Directors (as defined in Section 3.04(4)) in respect of a matter to come before the meeting, a quorum shall exist and shall be deemed to continue to exist during consideration of that matter so long as (a) a majority of the Directors who are not Interested Directors with respect to such matter is present at the meeting

and (b) if some or all of the Directors who are Interested Directors are not nominees of Non-Residents, a majority of the Directors present must be Individual Canadians who are not nominees of Non-Residents (and in order to constitute such quorum for consideration of the interested matter only, it shall be permissible for some or all of the Directors who are nominees of Non-Residents to absent themselves from that portion of the meeting at which the interested matter is being considered pursuant to Section 3.04(4)). If a quorum of directors is not present at a meeting of directors duly called because of the absence at such meeting of any DAVE Nominee or any Quadrangle Nominee, a quorum of directors at the next duly called meeting of directors shall not require the presence of a nominee of the Shareholder whose nominees prevented the formation of a quorum of directors at the last duly called meeting.

(3) Vote. Subject to Section 3.04(4), any matter put before the Directors (other than a matter set out in Section 3.06 which must be decided by the affirmative vote of a majority of the Directors constituted in the manner therein provided) shall be decided by the affirmative vote of a majority of the Directors present at the meeting in respect of that matter, or a resolution signed by all of the directors.

(4) Interested Matters. In addition to any requirements under Applicable Law, at any meeting at which the Board considers any matter involving a material agreement or transaction or proposed material agreement or transaction with the Company or OpCo to which a Shareholder (an “Interested Shareholder”) or any of its Affiliates or Associates is a party (in each case an “Interested Matter”), then any Shareholder Nominee of the Interested Shareholder (collectively, the “Interested Directors”), shall be required by the Chairperson to leave the meeting (after having an opportunity to make a presentation to the Board regarding the Interested Matter) while such Interested Matter is being considered, unless such requirement is waived by a majority vote of the Directors who are not Interested Directors, and in any event shall abstain from voting thereon.

3.05 Board Vote Required

The following matters must be brought to a vote of the Board and decisions thereon may not be delegated by the Board to a committee thereof or to officers or employees of the Company:

- (a) amendments to the Business Plan, including each update as provided in Section 4.02;
- (b) approval of the Annual Budget;
- (c) entering into any agreement with a Shareholder or with an Affiliate or Associate of a Shareholder or any material variation in or amendment to any existing agreement between the Company or OpCo and a Shareholder or an Affiliate or Associate of a Shareholder,
- (d) initiating, settling or compromising any claim, suit, action or proceeding which is material to the Company or OpCo;
- (e) any amendments to scope of authority of the CEO as set out in Section 3.07(2)(b);

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- (f) entering into any hedge, swap or other derivatives transaction, including interest rate swaps, forward rate transactions, commodity swaps, commodity options, interest rate options, forward foreign exchange transactions and currency options (collectively, "**Derivatives**"), except for Derivatives entered into for the sole purpose of hedging the Company's or OpCo's actual exposure to risks of fluctuations in interest rates or foreign exchange rates in respect of obligations of the Company or OpCo existing at the time such Derivatives are entered into;
- (g) unless specifically provided in the then current Annual Budget, encumbering, disposing of or transferring by the Company or OpCo of any assets having an aggregate value over \$5 million, or that constitute Intellectual Property;
- (h) unless specifically provided in the then current Annual Budget, the purchase of assets in a single transaction or series of related transactions having an aggregate acquisition cost to the Company or OpCo of over \$5 million;
- (i) the incurring of any Indebtedness of the Company or OpCo in a single transaction in an amount in excess of \$2 million, unless such Indebtedness is specifically identified in the then current Annual Budget;
- (j) subject to Section 3.06(m) and Section 3.07, the election, appointment or removal of any Executive Officers of the Company and the establishment of and any change in their compensation;
- (k) the decision to make any change in accounting policy of the Company or OpCo, except as required by GAAP;
- (l) entering into agreements in respect of any Mandatory Funding; and
- (m) any other matters which by the terms of this Agreement or under the OBCA are reserved to the Board and may not be delegated;

3.06 Special Board Vote Required

None of the following actions shall be taken by the Company, or by the Company to authorize such action to be taken by OpCo, or by OpCo, unless such action is authorized by Special Board Approval:

- (a) the creation of any new Subsidiary of the Company or OpCo or of any Subsidiary of either of them;
- (b) the entering into or the amendment, renewal, assignment or termination of, or the granting of any material consent, approval or waiver under, or the decision to permit the expiry of, any Material Agreement;
- (c) any change in the Articles or By-laws, or the articles or by-laws of OpCo;

- (d) the entering into of any agreement or series of related agreements that is not in the ordinary course of business of the Company or OpCo, consistent with past practices, or the hiring of any investment bankers or financial advisers in connection therewith for aggregate fees in excess of \$250,000;
- (e) the entering into of any agreement or series of related agreements, or the adoption of any business strategy, or any change in the Business Plan, that, if implemented and aggregated with all other actions taken by the Board during the relevant Plan Period, could reasonably be expected to change the projected revenues, expenses or capital expenditures of the Company or OpCo, as set out in the then current Business Plan, by more than 15%;
- (f) except in respect of a Mandatory Funding or the conversion of any Shares into any other Shares in accordance with their terms, any change in the authorized or issued shares in the capital of the Company or OpCo, including upon a First Public Offering, the entering into of any agreement, or the making of any offer or the granting of any right capable of becoming an agreement, to issue any shares in the capital of the Company or OpCo (other than in circumstances where the Board determines that such change in share capital, entering into of such Agreement or making of such offer or granting of such right is necessary as a result of financial distress of the Company or OpCo), or the repurchase or repayment of any obligations for borrowed money of the Company or OpCo or any Subsidiary of either of them or of a Subsidiary prior to its stated maturity;
- (g) the incurring of Indebtedness or the giving of any Lien to any Person in respect of obligations in excess of 5% of the Company's Enterprise Value or the amendment or modification of material terms of any such Indebtedness, or the granting of a Lien over any material assets of the Company or OpCo, or the hiring of any investment bankers or financial advisers in connection with any of the foregoing for aggregate fees in excess of \$250,000;
- (h) the purchase of any assets or the making of any other capital expenditures pursuant to any contract or series of related contracts at a cost in excess of an amount equal to 5% of the Company's Enterprise Value, unless such purchase or capital expenditure is specifically provided for in the Initial Business Plan or in a subsequent Business Plan and in respect of the applicable Plan Period in which such purchase or contract is made;
- (i) the sale, lease, exchange, transfer or other distribution, or contribution to any Person through a single agreement or transaction or series of related agreements or transactions, of any Target Licences, or any other asset or group of assets or interest therein, where the proceeds from such agreement or transaction, or series of related agreements or transactions, would be greater than an amount equal to 5% of the Company's Enterprise Value (in cash consideration), or the fair value of any property received (determined on a net present value basis in respect of any deferred proceeds);

- (j) the declaration or payment of any dividend, the redemption, purchase or other acquisition of any Shares by the Company or of any shares in the capital of OpCo or the repayment of any Indebtedness to any Shareholder or the Affiliate or Associate of any Shareholder otherwise than in accordance with their terms;
- (k) the taking of any steps to wind up, dissolve, reorganize or terminate the corporate existence of the Company or OpCo or the taking of any steps in respect of Insolvency Proceedings by or against the Company or OpCo;
- (l) the taking of any steps to amalgamate or merge the Company or OpCo with another Person or to consolidate, recapitalize, arrange or reorganize the Company or OpCo, or to continue the Company or OpCo under the laws of another jurisdiction;
- (m) the appointment of, or the termination and removal of, the Chief Financial Officer of the Company and OpCo;
- (n) increases in the compensation to be paid to the Executive Officers of the Company and OpCo, as a group, by more than 5% from the compensation paid to such Executive Officers, as a group, in the immediately preceding year, or the establishment of any incentive compensation plan or share option or other equity plan or stock appreciation rights or similar equity related plan for employees of the Company or OpCo, or the granting of any severance or termination pay or other award to any Executive Officer in excess of customary compensation for persons in comparable positions, or in excess of that provided in an applicable employment contract of the Executive Officer;
- (o) the decision to proceed with the First Public Offering;
- (p) the making of, directly or indirectly, loans or advances to, or the giving of security for, or the guaranteeing of the Indebtedness of, or otherwise giving financial assistance to, any Person other than OpCo or a Subsidiary of the Company or OpCo; and
- (q) the entering into or amending of any agreement between the Company or OpCo or any Subsidiary and any Shareholder or an Affiliate or an Associate of any Shareholder.

3.07 Officers

(1) Executive Officers. Each of the Company and OpCo shall have a CEO and such other Executive Officers as are provided in the By-laws and the by-laws of OpCo, as the case may be, or as is determined by the Board. The officers of the Company shall be the same persons, and shall have the same designations, as of OpCo. There shall be no change in the titles or duties of the Executive Officers and no appointment of persons with similar powers or authorities except by amendment to the By-laws and the by-laws of OpCo. At the first meeting of the Board after the occurrence of any vacancy in the office of any Executive Officer, the Board shall appoint executive officers to fill such vacancies.

- (2) CEO.
- (a) Identity. The same individual shall be the CEO for the Company and OpCo. To accomplish this end, the Shareholders agree that the resignation, removal or election of the CEO of the Company shall be deemed to effect at the same time the resignation, removal or election, as the case may be, of the CEO of OpCo without further formality; however, as soon as practicable after any change in the CEO of the Company, the Company shall cause the board of directors of OpCo to take, or cause to be taken, such steps as may be necessary to confirm, ratify and evidence the change in the CEO of OpCo. The CEO shall be appointed by majority vote of the Board. In accordance with Section 3.02(2), in the event of a tie in respect of such vote for the appointment of the CEO, the Chairman shall have a second and deciding vote. The CEO shall be an individual Canadian (within the meaning of Section 2 of the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the Telecommunications Act (Canada)), and shall not be an Interested Party in relation to Quadrangle.
- (b) Authority. The CEO shall have the day-to-day responsibility for managing the business and operations of the Company within the discretion of the CEO as restricted by the scope of the Business Plan. In addition, the CEO shall have the powers and duties set forth in the By-laws and the power and authority normally incident to the office of CEO, including the following authorities and accountabilities:
- (i) accountability to the Board to achieve the milestones, requirements and objectives as set forth in the Business Plan and Annual Budget or otherwise;
 - (ii) day-to-day administration of the Company;
 - (iii) representing the Company in dealings with the Shareholders, their Affiliates and third parties;
 - (iv) preparing and proposing to the Board updates and amendments to the Business Plan and Annual Budget including the annual update referred to in Section 4.02; and
 - (v) managing the human resources of OpCo in a manner consistent with the Business Plan, including the appointment and removal of managers other than the Executive Officers.
- (c) Change in Authority. No change shall be made in the scope of the authority of the CEO unless, for so long as such Shareholder has an Ownership Interest of not less than 9%, such change is approved in writing by each of DAVE and Quadrangle.

(3) Term and Appointment of Other Executive Officers. Except as provided in Section 3.06(m), the Board shall have the sole and absolute authority to elect, appoint, hire, remove or dismiss any Executive Officer of the Company. After the occurrence of any vacancy among Executive Officers, the Board shall appoint each Executive Officer for which a vacancy then exists.

3.08 Board of OpCo

Until otherwise determined by Extraordinary Resolution, there shall be a single director of OpCo appointed by the Board. The Board shall appoint an individual who is not a Non-Resident as the sole director of OpCo, and all resolutions of the directors of OpCo shall be adopted by signed resolution of the sole director of OpCo.

ARTICLE 4 - SCOPE AND OBJECTIVES; BUSINESS PLAN

4.01 Initial Business Plan; Budgets

(1) Initial Business Plan. Each party acknowledges that it has received a copy of the Business Plan initially prepared by or on behalf of the Shareholders (the "**Initial Business Plan**"), and the Initial Business Plan is hereby approved by the parties hereto. The Initial Business Plan shall take effect on the date of this Agreement and for greater certainty shall not require the approval of the Board. The Initial Business Plan sets forth the strategic goals of OpCo for the period ending on December 31, 2013.

(2) Scope and Contents of Business Plans

- (a) It is the parties' intention that the Business Plan and any amendments thereto shall be prepared and updated with a view to furthering their objectives of maximizing the financial performance and developing the long-term prospects of the Company and OpCo.
- (b) The Business Plan, as amended and updated from time to time in accordance with Section 4.02, shall set out the strategic goals of the Company to be met during the period ending on December 31, 2013, in the case of the Initial Business Plan, and commencing on the date of each annual update under Section 4.02, in the case of annual amendments to the Initial Business Plan (each such five year period under the Business Plan, or shorter period determined in accordance with Section 4.02, a "**Plan Period**") as well as the general operational and marketing approaches toward meeting those goals. It shall be drafted with express recognition that the specifics of implementing the strategic goals within the broad guidelines set forth therein are within the province of management discretion. The Business Plan shall incorporate a model that provides a projection for the current year, and projections for the next five years, or shorter period determined in accordance with Section 4.02, of the income statement, balance sheet and statement of cash flows, presented on a quarterly basis for the first two years of each such Plan Period and on an annual basis for the remainder of the Plan Period. The level of

detail for each subsequent Plan Period shall be consistent with the detail in the Initial Business Plan, unless otherwise agreed by the Board.

(3) **Budgets.** No later than 30 days before the end of each fiscal year, the CEO shall prepare or cause to be prepared and shall present to the Board for approval, a budget for the next fiscal year, consisting of an income statement, balance sheet and statement of cash flows in detail at least equivalent to those contained in the Initial Business Plan, together with supporting schedules as would reasonably accompany an annual budget, including in the statement of cash flows a line item for capital expenditures over \$2 million, with a schedule of supporting detail for each capital expenditure over \$5 million (unless shareholders agree higher amounts), and shall set out in reasonable detail the dates and amounts of capital funding (each a "**Mandatory Funding**") required to fund all capital expenditures and other expenses as stipulated in such budget (each an "**Annual Budget**"). The Annual Budget shall be presented on a monthly basis showing the actual results for the previous year and the budget year budgeted forecasts. The Shareholders agree to instruct their director nominees to the extent permitted by law to use reasonable commercial efforts to approve an Annual Budget by not later than February 28 of each year.

4.02 Updates to Business Plan

The Business Plan shall be reviewed and updated by management of the Company each year commencing the year ending December 31, 2008, and presented to the Board by the CEO, no later than 30 days before the end of each fiscal year (the "**Business Plan Update Date**"). However, with respect to fiscal 2008, the Business Plan shall be presented to the Board by the CEO no later than 60 days following the end of the fiscal year, specifically December 31, 2008. This Business Plan update shall reflect the actual results for the year about to end as well as the budget and forecast for the next year, and shall extend for a Plan Period of five years (unless a shorter period is recommended by management and approved by the Board). In addition, management will review, and if necessary, update, the Business Plan for presentation by the CEO to the Board no later than seven months after the close of each fiscal year. The Business Plan shall also be reviewed and updated by management of the Company and presented by the CEO to the Board no later than 60 days after there shall have occurred a material change to the business of the Company. Upon presentation of any draft revised Business Plan by the CEO, the Board shall review such plan and shall ratify or amend plan information, subject to Section 3.06(e), so that the Business Plan in effect at any time during the term of this Agreement will constitute a rolling five-year business plan for the Company (or shorter period if recommended by management and approved by the Board). If the Board is unable to agree by any Business Plan Update Date on the Business Plan for the next fiscal year, then the Business Plan then in effect shall be controlling. The Board may review and amend the Business Plan, subject to Section 3.06(e), at any time during the fiscal year, at the discretion of the Board or upon the recommendation of the CEO.

4.03 Non-Solicitation Covenant

Each of DAVE and Quadrangle shall not, and shall cause its directors, officers, employees (in their capacity as such) and Subsidiaries not to, directly or indirectly, while a Shareholder and for a period of one year thereafter, cause, solicit, induce or encourage any

employee who is a member of senior management of the Company and any of its Subsidiaries, including OpCo, to leave such employment or hire, employ or otherwise engage any such individual, provided that the foregoing shall not prohibit (i) any general solicitation of employees that is not targeted at such employees, and (ii) any such Party from hiring an employee who has been terminated by the Company or any Subsidiary prior to commencement of employment discussions, provided that such hiring is not in breach of any contractual obligation of such employee with the Company or any of its Subsidiaries.

4.04 Non-Competition Covenant

Each of DAVE and Quadrangle agrees, for the benefit of the Company and its Subsidiaries, including OpCo, that for so long as it (or any Person who is a Permitted Transferee of it within the meaning of clause (a) of the definition of Permitted Transferee) owns any Shares, it shall not, directly, or indirectly through any Subsidiary (other than the Company and its Subsidiaries, including OpCo), engage in, manage, consult with, or invest in equity securities of any Person having participation rights in excess of 2% of the profits of, a Wireless Business, except for investments made in such public companies that engage in a Wireless Business to the extent that such investments equate to less than 10% of the outstanding equity securities of any such public company.

4.05 Enforcement of Restrictive Covenants

Each of DAVE and Quadrangle agrees that while the covenants and undertakings contained in Sections 4.03 and 4.04 have no financial value, such covenants and undertakings nonetheless relate to matters which are of a special, unique and extraordinary character and a violation of any of the terms of Sections 4.03 and 4.04 will cause irreparable injury to the Company or OpCo, the amount of which will be impossible to estimate or determine and which cannot be adequately compensated. Accordingly, the remedy at law for any breach of Sections 4.03 and 4.04 will be inadequate. Therefore, the Company or OpCo will be entitled to a temporary and permanent injunction, restraining order or other equitable relief from any court of competent jurisdiction in the event of any breach of Sections 4.03 and 4.04 without the necessity of proving actual damage or posting any bond whatsoever. The rights and remedies provided by this Section 4.05 are cumulative and in addition to any other rights and remedies which the Company or OpCo may have hereunder or at law or in equity.

ARTICLE 5 – SHAREHOLDER MATTERS

5.01 Meetings of Shareholders

(1) Quorum. The quorum for the transaction of business at any meeting of the holders of Common Shares shall be one Person present in person or by proxy holding at least 51% of the Common Shares entitled to vote on each matter to be voted upon at the meeting and held by Persons who are not Non-Residents. No meeting of the Shareholders shall continue with the transaction of business if and when a quorum ceases to exist.

(2) Votes. Except as otherwise provided in this Agreement or in the OBCA, all matters before the Shareholders shall be decided by a majority of the votes cast on the matter. The chairman of a meeting of the Shareholders shall not have a second or casting vote.

(3) Any Shareholder holding more than 5% of the votes that may be cast at a meeting of shareholders shall have the right to call a meeting of the Shareholders in accordance with the procedures set out in the By-laws of the Company.

ARTICLE 6 – FINANCE AND RELATED MATTERS

6.01 Pre-Emptive Rights

- (1) Restrictions on Issue. The Company may not
 - (a) offer any Shares, or securities convertible into, or exercisable for, or having payment rights linked to the value of, Shares, either alone or in combination with an offering of debt securities of the Company or OpCo, except in respect of the First Public Offering, or
 - (b) issue any Shares, except (A) Class B Shares issued as the result of any conversion of Common Shares, (B) Common Shares issued as a result of any conversion of Class B Shares, (C) Common Shares issued pursuant to management incentive programs of the Company approved as provided in Section 3.06(n), (D) as provided in the Subscription Agreements, or (E) in respect of the First Public Offering,;

otherwise than in accordance with this Section 6.01.

(2) Notice of Pre-Emptive Right. Except as permitted pursuant to this Section 6.01, every offer of Shares, or securities convertible into, or exercisable for, or having payments linked to the value of, Shares, shall be made by notice ("**Notice of Pre-Emptive Right**") to each of DAVE and Quadrangle (each Shareholder for the purposes of this Section 6.01(2) being referred to as a "**Pre-Emptive Rights Shareholder**") from the secretary of the Company which shall set forth:

- (a) a description of the Shares, securities convertible into, or exercisable for, or having payment rights linked to the value of, Shares, to be offered or issued (the "**Offered Treasury Shares**") and debt securities, if any, of the Company or OpCo, which, if offered, shall be offered in units of Shares, securities convertible into, or exercisable for, or having payment rights linked to the value of Shares and/or debt securities (which if so offered shall also be considered to be "**Offered Treasury Shares**" for the purposes of this Section 6.01);
- (b) the subscription price for each Offered Treasury Share, which shall be the fair market value thereof at the date of issue, as determined by the Board; and

- (c) the subscription date (the “**Subscription Date**”), which shall be a date not earlier than 20 Business Days after the date of the notice.
- (3) Limits on Subscriptions. Each Pre-Emptive Rights Shareholder may subscribe up to its Pro Rata Proportion of the Offered Treasury Shares by giving notice of its subscription (“**Notice of Subscription**”) to the Company within 10 Business Days after receipt of the Notice of Pre-Emptive Right (the “**Subscription Period**”).
- (4) Undersubscribed Issues. If any Shareholder shall not give Notice of Subscription in respect of its full Pro Rata Portion of the Offered Treasury Shares, the Company shall re-offer the Offered Treasury Shares not subscribed to those Shareholders who have fully-subscribed its full Pro Rata Portion of the Offered Treasury Shares by way of an “**Additional Notice of Pre-Emptive Rights**”, which need only contain notice of the amount of Offered Treasury Shares being offered) at a price per Offered Treasury Share of 100% of the price at which the Offered Treasury Shares were originally offered. Each Shareholder to whom an Additional Notice of Pre-Emptive Rights has been given may give notice of subscription to the Company within 10 Business Days after receipt of the Additional Notice of Pre-Emptive Rights.
- (5) Fractional Shares. If the Offered Treasury Shares of any issue are not capable, without division into fractions, of being offered to or being divided between the parties in their Pro Rata Proportions, the Offered Treasury Shares shall be offered to or divided between the parties as nearly as may be in these proportions.
- (6) Issue and Payment. Each Pre-Emptive Rights Shareholder subscribing for Offered Treasury Shares shall pay for, and the Company shall issue, and in the case of an offering of debt securities of OpCo, OpCo shall issue, the Offered Treasury Shares on the Subscription Date.
- (7) Sales to Third Parties. If not all of the Offered Treasury Shares of any issue are subscribed for within the Subscription Period, or, if applicable, the period within which additional Offered Treasury Shares may be subscribed pursuant to Section 6.01(4), the Company may, during the following period of 90 days, offer and sell to any Permitted Purchaser all or any of the Shares not taken up by the Pre-Emptive Rights Shareholders at a price which is not less than the subscription price offered to the Pre-Emptive Rights Shareholders pursuant to the Notice of Pre-Emptive Rights and on terms and conditions which are no more favourable to the Permitted Purchaser than those offered to the Pre-Emptive Right Shareholders, subject to Section 6.01(11).
- (8) Classes of Shares. Notwithstanding the description of the Offered Treasury Shares set out in the Notice of Pre-Emptive Rights, any Pre-Emptive Rights Shareholder which delivers a Notice of Subscription or an Additional Notice of Pre-Emptive Rights in respect of Offered Treasury Shares, or a portion thereof, which constitute Shares, or securities convertible into, or exercisable for, Shares, which it would be unable to own under Applicable Law, shall specify in its Notice of Subscription or Additional Notice of Pre-Emptive Rights that it wishes to purchase an equivalent number of Shares, or securities convertible into, or exercisable for, Shares, of a class which it is permitted to own under Applicable Laws, and in such event, the Directors shall authorize for issuance, and the Company shall issue, to such Pre-Emptive Rights

Shareholder the number of Shares, or securities convertible into, or exercisable for, Shares, of the class so specified, in lieu of the authorization and issuance of that number of Offered Treasury Shares to that Pre-Emptive Rights Shareholder, and all such Shares, or securities convertible into, or exercisable for, Shares, shall have the same rights and entitlements to the maximum extent permitted by Applicable Law.

(9) Convenience Sale Rights. For convenience of administration, the Company may offer and sell Shares or Shares and debt securities to one or more Shareholders without first complying with this Section 6.01, so long as each Shareholder is provided with the opportunity to purchase its Pro Rata Portion of the Shares or Shares and debt securities at the same price and on the same terms within 45 days after the consummation of such sale.

(10) Termination of Rights. The provisions of this Section 6.01 shall terminate upon the consummation of the First Public Offering.

(11) Mandatory Funding. Each Annual Budget prepared in accordance with Section 4.01(3) will contain disclosure of the amount, and anticipated funding date, of each Mandatory Funding required during the year in question. The Chairperson shall bring forward each Mandatory Funding on the Board agenda for a meeting of the Board at such time as will permit funding to be available to the Company at the relevant time as required by the Annual Budget, and if such Mandatory Funding is deferred by decision of the Board, shall again bring forward for consideration such Mandatory Funding on the agenda for the meeting of the Board to occur not later than the date of deferral by the Board. If the Board authorizes an offering of Offered Treasury Shares to fund a Mandatory Funding, the Shareholders shall use all reasonable commercial efforts to accommodate the closing of the Mandatory Funding in accordance with the anticipated funding schedule set out in the Annual Budget, or if applicable, the deferred funding date as determined by the Board. In the event that the Shareholders do not subscribe for all Offered Treasury Shares in respect of each Mandatory Funding in accordance with Article 6, and Offered Treasury Shares are offered to one or more Permitted Purchasers in accordance with Section 6.01(7), each Shareholder agrees to negotiate in good faith changes to the governance agreements contained herein to accommodate the reasonable requests of such Permitted Purchasers, including, if required, changes to the number of Directors so that a Permitted Purchaser may be entitled to nominate and have elected one or more Directors consistent with its level of Ownership Interest (which for this purpose shall include all convertible securities, including convertible securities to be acquired by such Permitted Purchaser, calculated on an "as converted" basis) related to the aggregate number of Directors at such time, subject always to compliance with Section 3.02(4)(b), and except that in no event shall DAVE or Quadrangle be required to agree to changes to Section 3.06 or to agree any other change which would materially affect its rights as shareholder hereunder, other than related to the number of Directors to be nominated or elected, and other than those adverse changes that are a consequence of the dilution caused by the issuance of the Offered Treasury Shares to the Permitted Purchaser.

6.02 Changes to Shares and Governance Provisions

In conjunction with the preparation for the First Public Offering, the Shareholders shall consider in good faith the share structure of the Company and the governance provisions contained in this Agreement with a view to determining the optimal structure which

appropriately protects the rights of each Shareholder as provided in the Articles, By-Laws and this Agreement, is in compliance with Applicable Law and provides for the best available offering price in the First Public Offering and the best post-offering trading. However, no such change shall be made without the agreement of each of DAVE and Quadrangle.

6.03 Auditor/Legal Counsel

The auditors and the legal counsel of the Company and OpCo shall be determined from time to time by agreement between DAVE and Quadrangle for so long as each such Shareholder has an Ownership Interest of not less than 9%, and thereafter at the direction of either such Shareholder which continues to have an Ownership Interest of not less than 9%.

6.04 Year End

Until changed by Extraordinary Resolution, the fiscal year of the Company and OpCo shall end on December 31 in each year.

6.05 Access to Information

(1) Each of the Company and OpCo shall provide to each of DAVE and Quadrangle

- (i) all annual audited and quarterly unaudited financial statements at such times as may be reasonably requested by either DAVE or Quadrangle in order to support public filing or contractual disclosure obligations of DAVE and Quadrangle, and in no event later than the date that such financial statements are provided to the Company's or OpCo's bank lenders, and
- (ii) access to all other information concerning the business and affairs, financial performance and compliance with Applicable Laws of each of the Company and OpCo as shall be reasonably requested by either DAVE and Quadrangle, such access to be given under reasonable circumstances and in normal business hours. To the extent that the Company's annual financial statements are not audited within 60 days of the Company's fiscal year-end, the Company shall provide to DAVE and Quadrangle drafts of the Company's unaudited financial statements within such 60 day period, if and when otherwise available.

(2) The Company shall furnish to the Shareholders:

- (i) Promptly after the commencement thereof, notice of all actions, suits, and proceedings before or by any court, other governmental authority, or arbitrator affecting the Company, OpCo or any of their Subsidiaries;
- (ii) Promptly upon the occurrence of a material adverse change in the business, operations, prospects, assets, properties, or condition (financial or otherwise) of the Company or OpCo, a statement of the CEO or the chief financial officer of the Company and OpCo setting forth the details thereof and the action that the Company or OpCo proposes to take with respect thereto;
- (iii) Promptly after the sending or filing thereof, copies of all special reports which the Company or OpCo files with any Governmental Authority; and

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- (iv) Promptly upon receipt of a reasonable good faith request from a Shareholder, such other information respecting the business, operations, prospects, assets, properties or condition (financial or otherwise) of Company or OpCo as such Shareholder shall from time to time reasonably may request.

(3) The right to receive the information as provided in Section 6.05(1) and Section 6.05(2) shall apply for so long as the recipient Shareholder continues to have an Ownership Interest of not less than 5%. Any Shareholder having an Ownership Interest of less than 5% shall be entitled to receive as Shareholder only such annual reports as are required by Applicable Law, and quarterly unaudited financial statements.

6.06 Acknowledgement of Pre-Emptive Rights.

The Parties agree and acknowledge that the grant of rights to acquire securities on or prior to December 31, 2010 pursuant to, and in accordance with, the terms and conditions of the amended and restated commitment agreement, dated December 17, 2009, entered into among DAVE, Quadrangle and the Company, shall be deemed to be in full satisfaction of each of such parties' rights and obligations under Section 6.01 of the Shareholders' Agreement in respect of securities issued under such commitment agreement on or prior to December 31, 2010, and each party to this Agreement waives compliance with the provisions of Section 6.01 of the Shareholders' Agreement in respect of any issuance of securities pursuant to such commitment agreement on or prior to December 31, 2010 to the extent such issuance is inconsistent with the provisions of Section 6.01 of the Shareholders' Agreement.

ARTICLE 7 – RESTRICTIONS ON TRANSFER OF RESTRICTED SHARES

7.01 Meaning of "Transfer"

In this Agreement, unless the context otherwise requires, any reference to a "transfer" of securities or any interest therein of a Person shall be interpreted to include:

- (a) any transfer or other disposition of such securities or any interest therein, including by operation of law, by court order, by judicial process, or by foreclosure, levy or attachment;
- (b) any sale, assignment, gift, donation, redemption, conversion or other disposition of such securities or any interest therein pursuant to an agreement, arrangement, instrument or understanding by which legal title to or beneficial ownership of such securities or any interest therein passes from one Person to another Person or to the same Person in a different legal capacity, whether or not for value, and
- (c) the granting of any Lien (other than a Permitted Lien) on or extending or attaching to such securities or any interest therein.

7.02 Board Approval of Transfers

In addition to the restrictions on transfer contained elsewhere in this Article 7, no Share may be transferred without the prior consent of a majority of the Board and the prior written consent of DAVE and Quadrangle. No Director shall vote to consent to the transfer of any Share unless all applicable restrictions on such transfer contained in this Article 7 have been complied with and such transfer is not otherwise prohibited by this Agreement, and the transferee has executed and delivered to the Company an acknowledgement of the existence and terms of this Agreement substantially in the form of Schedule E, to be effective immediately following such transfer. Each Director shall vote to consent to any transfer if all such restrictions on such transfer have been complied with and such transfer is not otherwise prohibited by this Agreement. Each Shareholder shall take all such action as may be required to ensure compliance with this Section 7.02 by its Shareholder Nominees. Any dispute as to whether any transfer is permitted under this Agreement shall be subject to arbitration under Article 9.

7.03 Restrictions on Transfers of Shares

No Shareholder may transfer any Shares or any interest therein owned by it to any Person except (i) to a Permitted Transferee pursuant to Section 7.04, (ii) pursuant to a sale of Shares upon insolvency in accordance with Section 7.06, or (iii) pursuant to a Liquidity Event in accordance with Section 7.07. Any attempted transfer of Shares made in breach of this Agreement shall be null and void. Neither the Board nor the Shareholders shall approve or ratify any transfer of Shares made in contravention of the prohibition contained in this Section 7.03, and the Company shall cause any such transfer not to be recorded on the registers of the Company maintained for the Shares.

7.04 Transfers to Permitted Transferees

(1) **Permitted Transferee.** A “Permitted Transferee” is, (a) in the case of Shares owned by a specific Shareholder, any Person (1) which is a Wholly-Owned Subsidiary of that Shareholder or (2) of which that Shareholder is a Wholly-Owned Subsidiary or (3) in the case of Quadrangle, which is a fund which is under common management with Quadrangle Parent or is managed by an Affiliate of the general partner of Quadrangle Parent, or is an entity which is Wholly-Owned by any one or more of such funds or (b) any Shareholder who is an original party to this Agreement.

(2) **Transfer.** Subject to this Section 7.04, each Shareholder shall be entitled, upon prior written notice to the Company and the other Shareholders, to transfer all or any portion of its Shares to any Permitted Transferee of that Shareholder. No such transfer shall be or become effective, however, until such Permitted Transferee executes and delivers to the Company an acknowledgement of the terms of this Agreement substantially in the form of Schedule E. Following a transfer, the transferring Shareholder and the Permitted Transferee shall be jointly and severally liable for all of the obligations of the transferring Shareholder hereunder. On subsequent transfers under this Section, the determination of whether the transferee is a Permitted Transferee shall be determined by reference to the Shareholder who was an original party to this Agreement, not by reference to the transferring Permitted Transferee in such subsequent transfer.

7.05 Indirect Transfers

(1) Sole Ownership. Each Shareholder covenants and agrees with the other parties that it shall remain the sole owner of all of the voting securities of any Wholly-Owned Subsidiary of it that hereafter acquires any Shares so long as such Wholly-Owned Subsidiary holds such Shares, and (ii) it shall not agree to be or be the subject of or a party to any transaction as a consequence of which Shares or voting interests therein would be or are acquired, directly or indirectly, by a Strategic Competitor of OpCo.

(2) Prohibited Transfers. Without limiting the generality of Section 7.05(1), the Company shall not recognize or register, and the Shareholders and the Board shall not approve, any direct transfer of Shares made in breach of Section 7.05(1), and neither the Board nor the Company shall recognize any direction, instruction or notice from any Person or group of Persons who acquires any voting securities of a Wholly-Owned Subsidiary in breach of Section 7.05(1) or acquires, directly or indirectly, control of a Shareholder as a result of a transfer or issuance of securities of such Shareholder or securities or other voting interests of any other Person made in breach of Section 7.05(1)(ii).

7.06 Sale of Shares on Insolvency

A Shareholder (an “**Insolvent Shareholder**”) shall be deemed to have irrevocably offered to sell all of the Shares owned by it to the other Shareholders as of the day (the “**Date of Withdrawal**”) immediately before the day on which Insolvency Proceedings by or against that Insolvent Shareholder are commenced, and each other Shareholder may, in addition to any other rights or remedies it may have, purchase such Shareholder’s Pro Rata Proportion of the Shares deemed to be offered by the Insolvent Shareholder (calculated without reference to the Shares held by the Insolvent Shareholder) at their Fair Market Value per Share as determined under Section 8.03 by giving notice of their elections to purchase within 30 Business Days after the Date of Withdrawal, according to their Pro Rata Proportions or any other proportions as they may agree. Such transaction of purchase and sale shall occur on the 10th Business Day after the date on which the Fair Market Value is determined pursuant to Section 8.03.

7.07 Liquidity Event

“**Liquidity Event**” means (i) the consummation of the First Public Offering and all subsequent public offerings of Shares if all public offerings realize at least \$75 million in gross proceeds in the aggregate (including gross proceeds received upon exercise of any over-allotment option by the underwriters) and results in Shares being registered on a nationally recognized stock exchange or interdealer quotation system in Canada or in the United States of America, or (ii) a sale or other disposition of all of the Company, or all of its direct or indirect Subsidiaries, including OpCo, for cash or immediately and readily marketable securities, whether such sale is structured as an arrangement, amalgamation or other merger, a sale of the Shares, asset sale or otherwise.

(1) If (i) a Liquidity Event has not occurred prior to the sixth anniversary of the Effective Date or (ii) upon the determination by the board that the Business Plan is no longer viable, either DAVE or Quadrangle shall have the right at any time thereafter, upon delivery of a

notice to the Company and each other Shareholders, to cause the Company to engage an investment bank or other financial advisor of nationally recognized reputation in Canada or the United States of America to serve as the Company's financial advisor (the "**Financial Advisor**"). Each Shareholder shall, and shall use its best efforts to cause each of its Shareholder Nominees (such best efforts to include, to the extent necessary, removal or replacement of any such Shareholder Nominee), to vote for, and execute any necessary consents in favour of, such engagement. The Company shall instruct the Financial Advisor to commence an orderly process to result in a Liquidity Event (as set out in (ii) of the definition of Liquidity Event) with the objective of achieving the highest practicable value for the Shareholders. The Company and OpCo and each Shareholder shall cooperate with the Financial Advisor in its efforts, and the Company and OpCo shall prepare such documents and information as may reasonably be required in connection with such process. The Company shall use its best efforts to reach agreement on the optimum structure and the terms and conditions for the Liquidity Event and will retain independent legal counsel of appropriate expertise. The fees and expenses of the Financial Advisor and such legal counsel shall be borne by the Company. The Company shall require the Financial Advisor to keep each of the Shareholders currently advised as to its efforts, any expressions of interest or offers or proposals that are received and other information relevant to the process conducted pursuant to this Section 7.07.

(2) The Company shall require the Financial Advisor to deliver to the Company and the Shareholders a notice (the "**Liquidity Event Notice**") within 120 days of the engagement of the Financial Advisor that sets forth the Financial Advisor's recommendation as to the Liquidity Event that will achieve the highest practicable value for the Shareholders (the "**Recommended Liquidity Event**"). The Liquidity Event Notice shall include reasonably detailed information with respect to the terms and conditions of the Recommended Liquidity Event (including with respect to structure, consideration and the identity of the parties involved) and, if applicable, the forms or current drafts of any proposed definitive agreements with respect thereto. Unless all of the Shareholders notify the Company within ten days of the date of the Liquidity Event that they object to the consummation of the Recommended Liquidity Event (in which case neither the Company nor any Shareholder shall have any obligations with respect to the Recommended Liquidity Event pursuant to this Section 7.07), the Company and each Shareholder shall use its best efforts to consummate the Recommended Liquidity Event as promptly as practicable on terms and conditions that in the aggregate are no less favourable to the Shareholders than those specified in the Liquidity Event Notice. Such best efforts shall include:

- (a) voting for, consenting to and raising no objections against the Recommended Liquidity Event;
- (b) entering into such definitive agreements as are customary for transactions of the nature of the Recommended Liquidity Event;
- (c) if the Recommended Liquidity Event is structured as a sale of Shares, agreeing to sell all of such Shareholder's Shares and at the closing of such sale delivering to the purchaser(s) good and valid title to all Shares owned by it, free and clear of all liens and encumbrances, together with duly executed written instruments of transfer with respect thereto, in form and substance reasonably satisfactory to the purchaser(s);

- (d) if the Recommended Liquidity Event is structured as a sale of assets, causing to be executed and delivered all documents, certificates, agreements and other writings and causing to be taken all such actions as may be necessary or desirable to vest in the purchaser(s) thereof good and marketable title to such assets; and
- (e) if the Recommended Liquidity Event is structured as an amalgamation, arrangement, consolidation, sale of Shares, waiving any dissent rights, appraisal rights or similar rights in conjunction with such transaction.

No Shareholder shall be subject to this Section 7.07 with respect to any Recommended Liquidity Event (whether by arrangement, amalgamation or other merger, or other transaction giving rise to shareholder dissent rights, asset sale or otherwise, but not by initial public offering) unless all holders of Shares and other securities of the Company and OpCo shall receive the same proportion of the aggregate consideration from such sale that such holder would have received if such aggregate consideration had been distributed by the Company or OpCo in complete liquidation of the Company and OpCo.

7.08 Changes in Law Affecting Permissible Levels of Shareholdings

(1) **Required Reductions in Share Ownership.** If the introduction of or any change in Applicable Law or the interpretation thereof by any court of competent jurisdiction or Governmental Authority charged with the administration thereof (any such introduction or change, a “**Change in Law**”) has the effect of requiring Quadrangle or any other Shareholder who is a Non-Resident (an “**Affected Shareholder**”) to divest itself of any number of Shares (the “**Excess Shares**”) that it then holds, or if such Change in Law would render OpCo ineligible to continue to operate its Wireless Business under Applicable Law if an Affected Shareholder continued to hold the Excess Shares, then on or before the effective date of such Change in Law or as soon as possible thereafter if such Change of Law is immediate, the Affected Shareholder shall either:

- (a) if the Excess Shares are Common Shares, convert such Excess Shares into an equal number of Class B Shares; or
- (b) if the Excess Shares are Class B Shares, or are Common Shares but the conversion of such Common Shares into Class B Shares would not cause such shares to cease to be Excess Shares, sell the Excess Shares to a Permitted Purchaser.

(2) **Conversion Rights.** If as a result of any Change of Law any Affected Shareholder would be permitted to hold Common shares in excess of the number of Common Shares that such Shareholder may presently hold, such Affected Shareholder shall be entitled to give notice of conversion under Section 7.09 and thereafter convert Class B Shares into Common Shares to the extent permitted by such Change of Law.

(3) **Maintenance of Status.** DAVE covenants to continue to be a “Canadian” within the meaning of the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada), for so long as such

status is required by Applicable Law in order for OpCo to continue to hold in good standing any of the Target Licences.

7.09 Notice of Conversion

Each Shareholder shall give notice to the Company and to each holder of Shares of its intention to convert Shares of any class into Shares of any other class, such notice to be given not less than two Business Days prior to the intended conversion date.

7.10 Share Certificates Legend

All Share certificates of the Company shall bear the following legend conspicuously on their face:

“The shares represented by this certificate are subject to the terms and conditions of a unanimous shareholder agreement made as of August 1, 2008 and are not transferable except in compliance with that agreement.”

ARTICLE 8 - GENERAL SALE PROVISIONS

8.01 Application of Sale Provisions

Except as may otherwise be provided in this Agreement, the provisions of this Article 8 shall apply to any sale of Shares (each a “**Sale Transaction**”) between or among Shareholders or their designees pursuant to this Agreement.

8.02 Defined Terms

For the purposes of this Article 8:

(1) “**Purchased Shares**” means the Shares to be purchased and sold or issued and taken up and paid for in any Sale Transaction; and

(2) “**Purchase Price**” means the amount to be paid as the purchase or subscription price for the Purchased Shares.

8.03 Determination of Fair Market Value

(1) By Agreement. Where the Fair Market Value of Shares to be purchased and sold under this Agreement is required to be determined, such Fair Market Value shall be the value agreed by the parties to the Sale Transaction within 20 Business Days of the date on which the applicable offer to sell is made or deemed to be made (the “**Determination Date**”).

(2) Valuation. If the parties cannot agree on the Fair Market Value within 20 Business Days of the Determination Date, the Fair Market Value of the Shares to be purchased and sold shall be determined as follows:

- (a) Within 25 Business Days of the Determination Date, the purchaser shall give notice to the vendor proposing the name of the business valuer (the “Valuer”) that the purchaser wishes to determine the Fair Market Value of the Shares to be purchased and sold. Within 10 Business Days after receipt of the notice, the vendor shall give notice to the purchaser advising whether the vendor accepts such Valuer.
- (b) If no notice is given by the vendor within the specified period, the vendor will be deemed to have accepted the Valuer. If notice is given by the vendor within the specified period that it rejects the Valuer proposed by the purchaser, the purchaser may engage the Valuer but the vendor may engage a separate business valuer (the “Vendor’s Valuer”).
- (c) Each individual selected as a Valuer or a Vendor’s Valuer:
 - (i) shall be qualified by education and experience to value corporations in the telecommunications industry;
 - (ii) shall be at Arm’s Length to both parties and not otherwise an Interested Party; and
 - (iii) shall not be an individual who is a member or employee of a Person that has otherwise been retained by either of the parties.
- (d) Except as specified in the last sentence of this Section 8.03(2)(d), the Costs and Expenses of the Valuer shall be paid by the purchaser, or, if there is more than one purchaser, by the purchasers in accordance with their Pro Rata Proportions relative to each other. Except as specified in the last sentence of this Section 8.03(2)(d), the Costs and Expenses of the Vendor’s Valuer shall be paid by the Vendor.
- (e) The Valuer shall be instructed to prepare a written valuation report on the Fair Market Value of the Shares. The valuation report must contain disclosure consistent with that required under OSC Rule 61-501 and Companion Policy 61-501CP issued pursuant to the *Securities Act* (Ontario) as it may be amended from time to time and Appendix A to Standard #110 “**Valuation Report Standards and Recommendations**” of the Canadian Institute of Chartered Business Valuators as it was on the date of this Agreement. The Company will cooperate fully in providing to the Valuer information and access to management. The Valuer shall provide a draft of its report to the parties within 60 Business Days of the Determination Date. The draft may omit value conclusions but shall set out major assumptions, judgments, pertinent empirical evidence and a detailed framework for valuation calculations. The parties shall provide written comments on the draft to the Valuer within 70 Business Days of the Determination Date. The Valuer shall provide its final valuation report to the parties within 80 Business Days of the Determination Date.

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- (f) The Company will provide the Vendor's Valuer with the same cooperation, information and access as that provided to the Valuer. The Vendor's Valuer shall be instructed to adhere to the same valuation report timetable, disclosure and process as that described in Section 8.03(2)(e).
- (g) The vendor may provide to the Valuer the draft valuation report of the Vendor's Valuer and the purchaser may provide to the Vendor's Valuer the draft valuation report of the Valuer.
- (h) Subject to Section 8.03(2)(i), where the price of the Shares to be purchased and sold is their Fair Market Value, such price shall be the Fair Market Value set out in the Valuer's valuation report. If in the Valuer's valuation report Fair Market Value is expressed to be within a range, the mid-point of the range shall be the price of such Shares.
- (i) If the vendor notifies the purchaser within 90 Business Days of the Determination Date that it is not satisfied with the price determined under Section 8.03(2)(h) and if the Vendor's Valuer has prepared a report as set out in Section 8.03(2)(f) then the final Valuer's report and the final Vendor's Valuer's report shall be submitted to an Arbitrator, who shall determine the price of the Shares to be purchased and sold in accordance with the provisions of Schedule D.
- (j) The Arbitrator shall not be requested to prepare a third valuation but shall be requested to review the two valuation reports and any written comments from the vendor or purchaser provided under Section 8.03(2)(e), and to interview the purchaser, vendor, representatives of the Company, the Valuer and the Vendor's Valuer and, on the basis of that review, to determine the price of the Shares to be purchased and sold. In conducting its review, the Arbitrator shall give particular emphasis to the qualifications and independence of the Valuer and the Vendor's Valuer, the scope of their work and analysis and the fullness and clarity of the disclosure of assumptions, judgments, pertinent empirical evidence and calculations in the valuation reports.
- (k) If the determination of Fair Market Value by the Arbitrator is:
 - (i) equal to or less than 5% above the Fair Market Value determined by the Valuer, then all Costs and Expenses of the arbitration shall be paid by the vendor; and
 - (ii) more than 5% above the Fair Market Value determined by the Valuer, then all Costs and Expenses of the arbitration shall be paid by the purchaser, or if there is more than one purchaser, by the purchasers in accordance with their Pro Rata Proportions relative to each other.
- (l) The determination of Fair Market Value by the Arbitrator shall be final and binding on the vendor and purchaser.

8.04 Payment and Closing Provisions

The following shall apply to each Sale Transaction subject to any express provisions to the contrary:

(1) Payment of Purchase Price and Delivery of Certificates. The Purchase Price shall be paid in cash, by wire transfer or bank draft or certified cheque drawn on a Canadian chartered bank at the time of closing on the Sale Closing Date at the place of closing against receipt by the purchaser of the share certificate or certificates representing the Purchased Shares, duly endorsed in blank for transfer with signatures guaranteed by a Canadian chartered bank or trust company. All other payments required to be made in connection with a Sale Transaction shall be paid in cash, by wire transfer or bank draft or certified cheque drawn on a Canadian chartered bank at the time payment is required to be made, except that where permitted by the provisions of Article 7, payment may be made in whole or in part in marketable securities.

(2) Title. The seller of the Purchased Shares (the “Vendor”) shall represent and warrant in writing, such warranty to survive closing, that it has good and marketable title to the Purchased Shares and clear of any Lien except for the terms and conditions of this Agreement and shall deliver to the purchaser all such documents, instruments and releases and shall take all such steps and do all such acts and things as may be necessary or desirable to vest such title in the purchaser.

(3) Vendor’s Non-Completion

(a) If on the Sale Closing Date, the Vendor shall default in its performance of the Sale Transaction, the purchaser shall have the right upon such default (without prejudice to any other rights which it may have) to pay the Purchase Price to the credit of the Vendor in a special account at the principal branch of the Company’s principal bankers in the City of Toronto, and upon such payment to complete the Sale Transaction as aforesaid.

(b) If the Purchase Price is so deposited into a special account at the branch of the Company’s bankers in the name of the Vendor, then from and after the date of such deposit, and even though the certificates evidencing the Shares held by the Vendor have not been delivered to the purchaser, the purchase of such Shares shall be deemed to have been fully completed and all right, title, benefit and interest, both at law and in equity, in and to such Shares shall be conclusively deemed to have been transferred and assigned to and become vested in the purchaser and all right, title, benefit and interest, both at law and in equity, of the Vendor or of any transferee, assignee or any other Person having any interest, legal or equitable, therein or thereto, whether as a shareholder or creditor of the Company or otherwise, shall cease; provided, however, that the Vendor shall be entitled to receive the Purchase Price so deposited, without interest.

(c) The Vendor hereby irrevocably constitutes and appoints the corporate secretary of each purchaser as the Vendor’s true and lawful attorney-in-fact and agent for, in the name and of and on behalf of, the Vendor to execute and deliver in the name

of the Vendor, in the event that the Vendor defaults in signing, all such documents or instruments as may be necessary to transfer and assign the Shares, or any part thereof, to the purchaser, or its nominee or nominees, on the books of the Company. The Vendor hereby ratifies and confirms and agrees to ratify and confirm all that any purchaser may lawfully do or cause to be done by virtue of the provisions hereof.

- (d) The Vendor hereby irrevocably consents to any transfer of the Shares or any part thereof made pursuant to the provisions of this Section 8.04(3).
- (e) The Vendor shall be entitled to receive the Purchase Price deposited with the bankers of the Company upon delivery to the purchaser of certificates evidencing the shares so purchased duly endorsed in blank for transfer with signatures guaranteed by a Canadian chartered bank or trust company together with any other documents required to be delivered hereunder which have not been previously delivered.

8.05 Consents

The parties acknowledge that any transfer of Shares, including upon the completion of any Sale Transaction, shall be subject, in any event, to the receipt of all Regulatory Approvals required for the transfer of Shares contemplated thereby and, for the purpose of obtaining such Regulatory Approvals or other such approvals, permits and consents, the Sale Closing Date provided for elsewhere in this Agreement may be extended for such reasonable time as may be required and the parties shall cooperate fully in securing same. Accordingly, the parties agree that any purchase and sale of Shares hereunder shall be completed, if Regulatory Approval is required, on the later of the Sale Closing Date provided for elsewhere in this Agreement and ten Business Days after the date on which Regulatory Approval is obtained, but in any event, no later than the later of (a) 180 days after the Sale Closing Date provided for elsewhere in this Agreement and (b) the date of the final determination of an application for such Regulatory Approval where such application has been filed prior to the expiry of such period of 180 days.

8.06 Time and Place of Closing

Unless otherwise agreed by the parties to a Sale Transaction, the closing of the Sale Transaction shall take place at the registered office of the Company at 11:00 a.m. on the Sale Closing Date.

8.07 No Joint and Several Liability

Nothing in this Agreement shall make any purchaser jointly and severally liable for the obligations of any other purchaser.

8.08 Designee Purchases

If a Shareholder is given the right or opportunity to purchase Shares under this Agreement but is prohibited from doing so by Applicable Law (such as, by way of example and

not limitation, limitations on foreign ownership of telecommunications companies), such Shareholder may select a designee which is a Permitted Purchaser, which designee shall be entitled to exercise the right or opportunity to purchase the Shares in such Shareholder's stead to the extent that such Shareholder is prohibited from doing so itself. Each such designee shall execute an acknowledgement of the terms of this Agreement substantially in the form of Schedule E and shall thereafter have the rights and obligations hereunder as a Shareholder. In exercising its rights under this Section 8.08, each Shareholder shall, to the extent practicable, minimize the number of its designees.

ARTICLE 9 – ARBITRATION

9.01 Arbitration

If:

- (a) any objection to the reasonableness or good faith of a challenge made to the independence of a candidate for Independent Director under Section 3.03(3),
- (b) any dispute regarding whether any restrictions on transfers of Shares contained in Article 7 have been complied with,
- (c) any determination of Fair Market Value under Section 8.03(2)(i), or
- (d) any claim for damages based upon a personal cause of action for an alleged breach of this Agreement that but for this Section 9.01 would entitle a party to have the matter adjudicated before the court (including whether an issue is arbitratable)

cannot be resolved in a reasonable period of time in the circumstances by negotiation between the parties or otherwise in accordance with this Agreement, such matter shall be submitted to and finally resolved by arbitration in Ontario under the Arbitration Act and in accordance with the rules and procedures set out in Schedule D.

9.02 Rules for Arbitration

The rules and procedures set out in the Arbitration Act shall apply to each arbitration except to the extent they are modified by the rules for arbitration set out in Schedule D.

ARTICLE 10 - GENERAL

10.01 Carrying out of Agreement

The Company confirms its knowledge of this Agreement and shall carry out and be bound by the provisions of this Agreement to the full extent that it has the capacity and power at law to do so.

10.02 Assignment and Enurement

(1) Except as expressly provided under this Agreement, no party may assign this Agreement except (i) to a Permitted Transferee that has executed and delivered to the Company an acknowledgement of the terms of this Agreement substantially in the form of Schedule E in accordance with and subject to Section 7.04(2), or (ii) to a Permitted Purchaser that has executed and delivered to the Company such acknowledgement substantially in the form of Schedule E in accordance with Section 7.02. The rights provided in this Agreement in favour of each Shareholder are personal to each of them and their Permitted Transferees and are not assignable to, and do not accrue to, any Permitted Purchaser (other than a Permitted Transferee). After an assignment to a Permitted Transferee pursuant to Section 7.04, the rights of the transferring Shareholder shall be exercisable in whole by the Permitted Transferee, or in part by the transferring Shareholder and the Permitted Transferee(s), and reference to the Shareholder herein shall be construed as a reference to the Permitted Transferee, or the Shareholder and the Permitted Transferee, as the case may be. The restrictions on transfer of Shares contained in Sections 7.02 and 7.03 apply to all Permitted Purchasers and by executing an acknowledgement of this Agreement in the form of Schedule E, as required by Section 7.02, each Permitted Purchaser shall become bound by such restrictions. Any assignment made in contravention of this Section 10.02 shall be void and of no effect.

(2) This Agreement enures to the benefit of and binds the parties, their respective heirs, successors, and permitted assigns and all transferees of Shares.

10.03 Notices

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

If to DAVE:

Suite 2300
Canada Trust Tower,
Brookfield Place
161 Bay Street, Toronto
M5J 2S1

Attention: Mr. Stewart Lyons
Fax No.: (416) 650-9706

With a copy to:

Stikeman Elliot LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario
M5L 1B9

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Attention: Dee Rajpal
Fax No.: (416) 947-0866

If to Quadrangle:

8-10, rue Mathias Hardt
L-1717 Luxembourg
Grand-Duchy of Luxembourg

Attention: Ms Catherine Koch
Fax No.: •

With a copy to Quadrangle Parent

375 Park Avenue
New York, NY 10152
USA

Attention: Michael Huber
Fax No.: (212) 418-1724

With a copy to:

McCarthy Tétrault LLP
5300 Toronto-Dominion Bank Tower
66 Wellington Street West
Toronto, Ontario
M5K 1E6

Attention: Andrew Armstrong
Fax No.: (416) 868-0673

If to the Company:

Data & Audio-Visual Holdings Inc.
Suite 2300
Canada Trust Tower,
Brookfield Place
161 Bay Street, Toronto
M5J 2S1

Attention: Mr. Stewart Lyons
Fax No.: (416) 650-9706

If to OpCo:

Data & Audio-Visual Enterprises Wireless Inc.
Suite 2300

Canada Trust Tower,
Brookfield Place
161 Bay Street, Toronto
M5J 2S1

Attention: Mr. Stewart Lyons
Fax No.: (416) 650-9706

or to any other address, fax number or Person that the party designates. Any Notice, if delivered personally or by courier or sent by prepaid registered mail, will be deemed to have been given when actually received, if transmitted by fax before 5:00 p.m. on a Business Day, will be deemed to have been given on that Business Day, and if transmitted by fax after 5:00 p.m. on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.

10.04 Waivers

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.

10.05 Further Assurances

Each party shall from time to time promptly execute and deliver and take all further action as may be reasonably necessary or appropriate to give effect to the provisions and intent of this Agreement and to complete the transactions contemplated by this Agreement.

10.06 Remedies Cumulative

The rights and remedies under this Agreement are cumulative and 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.

10.07 Counterparts

This Agreement and any amendment, supplement, restatement or termination of any provision of 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.

10.08 Amendments

Except as expressly provided in this Agreement, no amendment, supplement, restatement, replacement or termination of any provision of this Agreement is binding unless it is in writing and signed by each of the Shareholders and the Company.

10.09 Fees and Expenses

Except as otherwise specifically provided herein, all out-of-pocket costs and expenses incurred by Quadrangle, DAVE and their respective shareholders in connection with their investment and ownership in DAVE, the investment in and ownership of Shares, this Agreement and all matters related thereto, including the reasonable fees and expenses of counsel whether incurred before or after the date of this Agreement, shall be paid by the Company.

10.10 Governing Law and Submission to Jurisdiction

This Agreement, and all matters arising out of or related to this Agreement, shall be governed by, and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable thereto. Any suit, action or proceeding against any of the parties hereto arising out of or related to this Agreement shall be brought in the Province of Ontario, and each of the parties hereto irrevocably and unconditionally attorns and submits to the exclusive jurisdiction of the courts of the Province of Ontario over the subject matter of any such suit, action or proceeding. Subject to Section 9.01, each of the parties hereto irrevocably and unconditionally waives any right such party may have to trial by jury in respect of any suit, action or proceeding arising out of or related to this Agreement. Each party irrevocably consents to process being served on such party in any suit, action or proceeding related to this Agreement by delivery of a copy thereof in accordance with the provisions of Section 10.03.

10.11 Termination

Except as otherwise provided, this Agreement shall terminate upon the earlier of:

- (a) the written agreement of all the Shareholders;
- (b) one Shareholder becoming the owner of all of the Shares; and
- (c) the closing of a sale of the Company as provided in Section 7.07.

All obligations of the parties which expressly or by their nature survive termination of this Agreement shall continue in full force and effect subsequent to and notwithstanding termination of this Agreement until they are fully satisfied or by their nature expire. Without restricting the generality of the foregoing, the obligations of the parties under Sections 2.03(2) and 2.04 shall survive termination of this Agreement. No party shall by reason of termination of this Agreement be relieved of any obligation or liability towards any other party accrued under this Agreement before termination, and all those obligations and liabilities shall remain enforceable until they are fully satisfied or by their nature expire.

10.12 Effectiveness

Article 3 (Corporate Governance) of this Agreement shall come into effect upon the appointment of the first Independent Director as provided in Section 3.03(3). Until such time, all actions and decisions for or in respect of the Company and OpCo shall require the

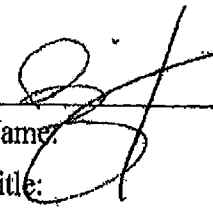
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approval of each of DAVE and Quadrangle. The remainder of this Agreement shall come into effect immediately upon execution of this Agreement.

[signature page follows]

The parties have executed this Agreement.

**DATA & AUDIO-VISUAL ENTERPRISES
INVESTMENTS INC.**

By: 

Name:

Title:

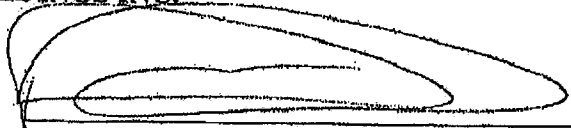
QCP CW S.A.R.L.

By: _____

Name:

Title:

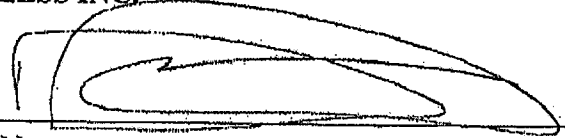
**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC.**

By: 

Name:

Title:

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC.**

By: 

Name:

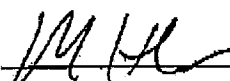
Title:

The parties have executed this Agreement.

**DATA & AUDIO-VISUAL ENTERPRISES
INVESTMENTS INC.**

By: _____
Name:
Title:

QCP CW S.A.R.L.

By: 
Name:
Title:

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC.**

By: _____
Name:
Title:

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC.**

By: _____
Name:
Title:

Exhibit “B”

**DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
UNANIMOUS SHAREHOLDER DECLARATION**

This Declaration is made as of August 1, 2008, between

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
a corporation incorporated under the laws of Canada
(the "Company")

- and -

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
a corporation incorporated under the laws of Canada
(in its own capacity, "Holdco", and in its capacity as sole
shareholder of the Company, the "Shareholder")

RECITALS

- A. All the issued and outstanding shares of the Company are owned beneficially and of record by the Shareholder.
- B. Holdco is a party to a Unanimous Shareholder Agreement made as of August 1, 2008 between Data & Audio-Visual Enterprises Inc., QCP CW S.A.R.L. and others, including the Company, (the "Unanimous Shareholder Agreement"). This Declaration is delivered under Section 2.02(3) of the Unanimous Shareholder Agreement.
- C. The parties intend this Declaration to be a unanimous shareholder agreement of the Company within the meaning of section 108(3) of the OBCA. This is Exhibit B referred to in the affidavit of William Aziz sworn before me, this 29 day of September 2013

FOR VALUE RECEIVED, the parties agree as follows:

ARTICLE 1 – INTERPRETATION

1.01 Definitions

In this Declaration:

- (1) "Affiliate" means a Person which, directly or indirectly, Controls, is Controlled by or is under common Control with another.
- (2) "Applicable Law" in respect of any Person, property, transaction or event, means all present and future laws, statutes, regulations, treaties, judgments and decrees applicable to that Person, property, transaction or event and, whether or not having the force of law, all

sworn before me, this 29
day of September 2013
[Signature]
A COMMISSIONER FOR TAKING AFFIDAVITS

applicable official directives, rules, consents, approvals, authorizations, guidelines, orders and policies of any Governmental Authority having or purporting to have authority over that Person, property, transaction or event.

(3) **"Articles"** means the articles of incorporation of the Company, as amended, restated or replaced from time to time in accordance with this Declaration.

(4) **"Associate"** has the meaning given to that term in the OBCA as in effect on the date hereof.

(5) **"Board"** means the board of directors of the Company, being, until changed in the manner provided in Section 3.08 of the Unanimous Shareholders Agreement, the sole director of the Company as provided in Section 3.08 of the Unanimous Shareholders Agreement.

(6) **"Business Day"** means any day other than a Saturday, a Sunday or a day on which the principal Canadian bank of the Company is required or authorized to close in the City of Toronto or banks are closed for business in New York City or are closed or become closed prior to 2:00 p.m. local time, whether in accordance with established practice or by reason of unanticipated events, including adverse weather conditions.

(7) **"Business Plan"** means the business plan of Holdco as prepared, updated and amended in accordance with Section 4.01 or 4.02 of the Unanimous Shareholder Agreement and includes the Initial Business Plan.

(8) **"By-laws"** means the by-laws of the Company attached to this Declaration as Schedule A, as amended, restated or replaced from time to time in accordance with this Declaration.

(9) **"CEO"** means the chief executive officer of the Company.

(10) **"Chairperson"** has the meaning given to it in Section 2.02(2).

(11) **"Common Carrier Ownership Regulations"** means the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada).

(12) **"Control"** (including, with correlative meanings, the terms "Controlled by" and "under common Control with") means the possession of the power, in law or in fact, to direct or cause the direction of the management and policies of a corporation whether through legal and beneficial ownership of a majority of Voting Securities of the corporation, by agreement or otherwise.

(13) **"Declaration"** means this declaration, including any recitals and schedules to this declaration, as amended, supplemented or restated from time to time.

(14) **"Director"** means a director of the Company, including any sole director of the Company.

(15) **"Executive Officer"** means any of the positions of officer of the Company specifically referred to in the By-laws as being elected or appointed by the Board.

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

(17) **"Insolvency Proceeding"** has the meaning given to it in the Unanimous Shareholder Agreement.

(18) **"Interested Party"** has the meaning given to it in the Unanimous Shareholder Agreement.

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

(20) **"OBCA"** means the *Ontario Business Corporations Act*, R.S.O. 1990, c. B.16.

(21) **"Person"** means any natural person, sole proprietorship, partnership, body corporate, corporation, company, trust, joint venture, any Governmental Authority or any incorporated or unincorporated entity or association of any nature.

(22) **"Shareholder"** means a Person who owns Shares.

(23) **"Shareholder Nominee"** means a Director who is also a **"Shareholder Nominee"** on the board of directors of Holdco as that term is defined in the Unanimous Shareholder Agreement.

(24) **"Share"** means any of the shares in the capital of the Company.

(25) **"Subsidiary"** means a subsidiary body corporate within the meaning of the OBCA.

(26) **"transfer"**, when applied to Shares, has the meaning given to it in Section 4.01.

(27) **"Voting Security"** means a security that carries voting rights under all circumstances or by reason of the occurrence of an event that has occurred and is continuing and includes a security currently convertible into such a security and a currently exercisable option or right to acquire such a security or such a convertible security.

(28) **"Unanimous Shareholder Agreement"** has the meaning given to it in paragraph B of the Recitals.

1.02 **Other Defined Terms**

Capitalize terms used in this Declaration and not otherwise defined have the meanings given to them in the Unanimous Shareholder Agreement.

1.03 **Headings and Table of Contents**

The division of this Declaration into sections, the insertion of headings and the provision of a table of contents are for convenience of reference only and are not to affect the construction or interpretation of this Declaration.

1.04 **References**

Unless otherwise specified, references in this Declaration to Sections and Schedules are to sections of, and schedules to, this Declaration.

1.05 **Number and Gender, extended meanings**

Unless otherwise specified, words importing the singular include the plural and vice versa and words importing gender include all genders. The term “including” shall be interpreted to mean “including without limitation”.

1.06 **Time of Day**

Unless otherwise specified, references to time of day or date mean the local time or date in the city of Toronto, Ontario.

1.07 **Business Day**

If under this declaration any payment or calculation is to be made or any other action is to be taken, on or as of a day which is not a Business Day, that payment or calculation is to be made, and that other action is to be taken, as applicable, on or as of the next day that is a Business Day.

1.08 **Governing Law**

This Declaration and each of the documents contemplated by or delivered under or in connection with this Declaration are governed by, and are to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable in the Province of Ontario.

1.09 **Conflict**

If there is a conflict between the provisions of this Declaration and the Articles or By-laws, the provisions of this Declaration shall prevail to the extent permitted by the OBCA and other Applicable Law. If there is a conflict between any provision of this Declaration and any other document contemplated by or delivered under or in connection with this Declaration

(except an instrument delivered under Section 5.10), the relevant provision of this Declaration shall prevail.

1.10 **Severability**

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

- (1) the legality, validity or enforceability of the remaining provisions of this Declaration; or
- (2) the legality, validity or enforceability of that provision in any other jurisdiction.

1.11 **Time of Essence**

For every provision of this Declaration, time is of the essence.

1.12 **Statutory References**

Unless otherwise provided herein, each reference to an enactment is deemed to be a reference to that enactment, and to the regulations made under that enactment, as amended or re-enacted from time to time.

1.13 **Schedules**

The following Schedules are attached to and form part of this Declaration:

Schedule	Description
Schedule A	By-laws

1.14 **Entire Agreement**

This Declaration, and all documents contemplated by or delivered under or in connection with this Declaration, constitute the entire agreement between the parties with respect to the subject matter thereof and supersede all prior agreements, negotiations, discussions, undertakings, representations, warranties and undertakings, whether written or oral, with respect to the subject matter thereof.

1.15 **Unanimous Shareholder Agreement**

This Declaration is intended to be a unanimous shareholder agreement of the Company within the meaning of section 108(3) of the OBCA. To the extent that this Declaration specifies that any matter may only be or shall be dealt with or approved by or requires action by the Shareholder, the powers of the Directors to manage the business and affairs of the Company with respect to those matters are correspondingly restricted.

ARTICLE 2 – CORPORATE GOVERNANCE

2.01 Board of Directors: General

(1) **Authority.** The Board shall have overall responsibility for managing and supervising the management of the business and affairs of the Company; and the power and authority of the Directors shall be subject only to such restrictions as are imposed by Applicable Law and by this Declaration.

(2) **Board of Holdings.** The parties confirm and declare that it is their intention that notwithstanding Section 2.01(1), each question before the Board shall be determined in the same manner that any similar question may be determined by the board of directors of Holdco, *mutatis mutandis*, and in respect of any such matter, such determination by the board of directors of Holdco shall be considered to be a determination made by the Shareholder, and the Shareholder shall hereafter sign a shareholder resolution with respect to the Company related to such matter.

(3) **Information and Access: Business Conflicts.** In order to resolve as expeditiously as possible, and in a manner that will promote the best interests of the Company, any conflicts of business objectives or interests between the Company and any Holdco Shareholder (a “**Conflicted Shareholder**”), the Board may retain, at the expense of the Company or Holdco, technical and other advisors to assist in such resolution, and the Board shall have the right to consult with senior management of the Company concerning the matters giving rise to the conflict in the absence of any Shareholder Nominee that is an Interested Party of the Conflicted Shareholder.

(4) **Actions in Insolvency.** Without restricting the generality of Section 2.01(1), in the event that the Board determines by resolution that there are reasonable grounds for believing that the Company has become, or is at substantial and imminent risk of becoming, an “insolvent person” or a “bankrupt” within the meaning of the *Bankruptcy and Insolvency Act* (Canada), the Board shall have the power and authority to take or cause to be taken, without the consent of the Shareholder, all such action as in the Board’s opinion shall be necessary or appropriate to enable the Company either to continue carrying on business as a going concern or to satisfy the claims of the creditors of the Company by effecting an orderly liquidation of the Company, including the power to commence Insolvency Proceedings or arrangement or other proceedings under Applicable Law.

2.02 Number and Election of Directors

(1) **Composition and Term.** The Board shall consist of a single director, unless otherwise determined pursuant to Section 3.08 of the Unanimous Shareholders Agreement.

(2) **Chairperson.** The Board shall not have a chairperson (“**Chairperson**”) unless there is at any time more than a single director. If there is more than a single director, the directors shall choose a Chairperson from among their number. The Chairperson shall be responsible for such matters as:

- (a) introducing proposals to the Board on matters that require Board approval;

- (b) setting the agenda for Board meetings;
- (c) convening and presiding at Board meetings; and
- (d) circulating minutes for approval by the Directors.

The Chairperson shall not have a tie-breaking or casting vote and, except as may be conferred upon him or her by resolution of the Directors related to the execution of contracts approved by the Board, or in respect of the negotiation and execution of contracts within parameters set by the Board, or except as conferred upon him or her by the By-laws, shall not have the authority to bind the Company.

(3) **Compensation and Expenses.** No Director shall be entitled to receive any compensation from the Company but any Director shall be entitled to be reimbursed for his or her expenses, including travel and lodging, relating to attending meetings of the Board.

(4) **Election and Qualification of Directors**

- (a) **Elections.** All Directors shall be elected or confirmed in office by the Shareholder at the same time as the annual general meeting of Holdco shareholders. The Shareholder shall vote its Shares and act in all other respects in connection with the corporate proceedings of the Company to elect a single director of the Company, as determined by a majority vote of the directors of Holdco, until otherwise determined pursuant to Section 3.08 of the Unanimous Shareholders Agreement. The Shareholder shall ensure that such director or directors are elected and maintained in office from time to time as Directors.
- (b) **Residency.** Any sole Director shall be an individual Canadian (within the meaning of section 2 of the Common Carrier Ownership Regulations). Unless otherwise permitted by Applicable Law, no more than 20% of the Directors may be an individual who (i) is not "Canadian" within the meaning of the definition of "Canadian" in section 2 of the Common Carrier Ownership Regulations or (ii) does not meet any other applicable Canadian residency requirements under Applicable Law.

(5) **Committees of Directors.** The Board shall not appoint any committees, unless it is determined that more than one Director shall be appointed pursuant to Section 3.08 of the Unanimous Shareholders Agreement. In such event, such committees shall be appointed by majority vote of the directors of the Shareholder. In any event, no business shall be conducted, or shall continue, at any meeting of any committee unless a majority of the members present, and continuing to be present, are individual Canadians (within the meaning of section 2 of the Common Carrier Ownership Regulations) who are not persons who are or have been Interested Parties in relation to, or nominees of, any Shareholder who is a Non-Resident (each as defined in the Unanimous Shareholders Agreement).

2.03 **Meetings of Directors**

(1) **General.** For so long as there is a single Director, all actions of the Board of the Company shall occur by way of signed resolution of such single Director. If there is more than a single Director, the Board shall hold regular meetings no less frequently than once each quarter. At each meeting of the Board, senior management shall report to the Board as directed by the Board from time to time.

(2) **Quorum.** If there is more than a single Director, in addition to any requirements under Applicable Law, no business shall be conducted, or shall continue, at any meeting of the Board unless a majority of the members present and continuing to be present are Canadians (within the meaning of Section 2 of the Common Carrier Ownership Regulations).

(3) **Votes.** If there is more than a single Director, any question before the Directors shall be decided by the affirmative vote of a majority of the Directors then in office who are not Interested Directors (as defined in the Unanimous Shareholder Agreement) in respect of that question.

(4) **Interested Matters.** Any matter to be decided by the single Director, or by the Board which consists of more than one Director, which relates to a material agreement or transaction or proposed material agreement or transaction with the Company to which such single Director or any Director is an Interested Party (as defined in the Unanimous Shareholders Agreement) shall be determined by the board of directors of Holdco as provided in Section 3.04(4) of the Unanimous Shareholders Agreement.

2.04 **Shareholder Board Approval**

All matters which require a vote of the board of directors of Holdco, pursuant to Section 3.05 of the Unanimous Shareholder Agreement, shall require the approval of the Shareholder, and no such matter may be determined by the Board without such approval of the Shareholder. The Shareholder shall thereafter sign a shareholder resolution with respect to the Company related to such matter.

2.05 **Officers**

(1) **Executive Officers.** The Company shall have a CEO and such other Executive Officers as are provided in the By-laws.

(2) **CEO**

(a) *Identity.* The same individual shall be the CEO for each of Holdco and the Company. To accomplish this end, the Shareholder agrees that as soon as practicable after any change in the CEO of Holdco, the Shareholder shall cause the Board to take, or cause to be taken, such steps as may be necessary to effect the same change in the CEO of the Company.

(b) *Authority.* The CEO shall have the day-to-day responsibility for managing the business and operations of the Company within the discretion of the

CEO as restricted by the scope of the Business Plan. The CEO shall have the same authority with respect to the Company as is conferred upon the CEO of Holdco pursuant to Section 3.07(2) of the Unanimous Shareholder Agreement.

(3) **Term and Appointment of Executive Officers**

The Executive Officers of the Company shall be the same persons, and shall have the same designations, as in Holdco. To accomplish the end, the Shareholder agrees to take, or to cause to be taken, such steps as may be necessary to effect any change in the Executive Officers of the Company as shall be made in the Executive Officers of Holdco.

ARTICLE 3 – SHAREHOLDER MATTERS

3.01 **Restrictions on Management; Matters Requiring Special Board Approval of the Shareholder**

All matters requiring a Special Board Approval (as defined in the Unanimous Shareholders Agreement in Holdco pursuant to Section 3.06 of the Unanimous Shareholder Agreement shall only occur with respect to the Company if (i) such matter shall have obtained such approval in Holdco as required pursuant to the Unanimous Shareholder Agreement and (ii) the Shareholder shall have signed a shareholder resolution with respect to the Company, approving such matter.

ARTICLE 4 – RESTRICTIONS ON TRANSFER OF SHARES

4.01 **Meaning of “Transfer”**

In this Declaration, unless the context otherwise requires, any reference to a “transfer” of securities or any interest therein of a Person shall be interpreted to include:

(1) any transfer or other disposition of such securities or any interest therein, including by operation of law, by court order, by judicial process, or by foreclosure, levy or attachment;

(2) any sale, assignment, gift, donation, redemption, conversion or other disposition of such securities or any interest therein pursuant to an agreement, arrangement, instrument or understanding by which legal title to or beneficial ownership of such securities or any interest therein passes from one Person to another Person or to the same Person in a different legal capacity, whether or not for value, and

(3) the granting of any Lien on or extending or attaching to such securities or any interest therein.

4.02 **Approval of Transfers**

No Share may be transferred without the prior consent of the Shareholder as evidenced by an instrument in writing executed by the Shareholder.

4.03 **Share Certificates Legend**

Subject to Section 5.10(2), all certificates representing Shares of the Company shall bear the following legend conspicuously on their face:

“The Shares represented by this certificate are subject to the terms and conditions of a unanimous shareholder declaration made as of August 1, 2008 and are not transferable except in compliance with that agreement.”

ARTICLE 5 – GENERAL

5.01 **Carrying out of Agreement**

The Company confirms its knowledge of this Declaration and shall carry out and be bound by the provisions of this Declaration to the full extent that it has the capacity and power at law to do so.

5.02 **Assignment and Enurement**

This Declaration enures to the benefit of and binds the parties, their respective successors and permitted assigns and all transferees of Shares. For greater certainty, this Declaration shall not be binding upon nor affect any Person who becomes a shareholder of the Company by foreclosure or realization of security (including realization of a pledge of such shares).

5.03 **Notices**

Unless otherwise specified, each Notice to a party must be given in writing and delivered personally or by courier, sent by prepaid registered mail or transmittal by fax to the party as follows:

(1) If to Holdco:

Data & Audio-Visual Enterprises Holdings Inc.
Suite 2300
Canada Trust Tower,
Brookfield Place
161 Bay Street, Toronto
M5J 2S1

Attention: Mr. Stewart Lyons
Fax No.: •

(2) If to the Company:

Data & Audio-Visual Enterprises Wireless Inc.
Suite 2300
Canada Trust Tower,
Brookfield Place
161 Bay Street, Toronto
M5J 2S1

Attention: Mr. Stewart Lyons
Fax No.: •

or to any other address, fax number or Person that the party designates. Any Notice, if delivered personally or by courier or sent by prepaid registered mail, 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.

5.04 **Waivers**

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

5.05 **Further Assurances**

Each party shall from time to time promptly execute and deliver and take all further action as may be reasonably necessary or appropriate to give effect to the provisions and intent of this Declaration and to complete the transactions contemplated by this Declaration.

5.06 **Remedies Cumulative**

The rights and remedies under this Declaration are cumulative and 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.

5.07 **Counterparts**

This Declaration and any amendment, supplement, restatement or termination of any provision of this Declaration 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.

5.08 Amendments

Except as expressly provided in this Declaration, no amendment, supplement, restatement, replacement or (subject to Section 5.10) termination of any provision of this Declaration is binding unless it is in writing and signed by the Shareholder and the Company.

5.09 Submission to Jurisdiction

Each of the parties irrevocably submits to the non-exclusive jurisdiction of the courts of the Province of Ontario.

5.10 Termination

(1) **General.** Except as otherwise provided, this Declaration (including for greater certainty the restrictions on transfers of Shares contained in Article 4) shall terminate upon the earlier of:

- (a) the written agreement of all the parties hereto; or
- (b) any Person other than Holdco becoming the owner of all of the Shares.

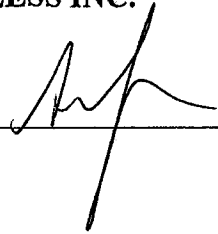
All obligations of the parties which expressly or by their nature survive termination of this Declaration shall continue in full force and effect subsequent to and notwithstanding termination of this Declaration until they are fully satisfied or by their nature expire. No party shall by reason of termination of this Declaration be relieved of any obligation or liability towards any other party accrued under this Declaration before termination, and all those obligations and liabilities shall remain enforceable until they are fully satisfied or by their nature expire.

(2) **Share Certificate Legend.** Upon termination of this Declaration, any holder of Shares shall be entitled to receive from the Company share certificates evidencing Shares which do not bear the legend referred to in Section 4.03.

[Signature page follows]

The parties have executed this Declaration.

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC.**

By: 

By: _____

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC.**

By: 

By: _____

SCHEDULE A**By-Laws**

Exhibit “C”

DATA AND AUDIO-VISUAL ENTERPRISES WIRELESS INC.
AND THE GUARANTORS PARTY HERETO
9.5% FIRST LIEN SENIOR SECURED NOTES DUE APRIL 29, 2018

INDENTURE

Dated as of April 29, 2011

EQUITY FINANCIAL TRUST COMPANY

Trustee and Collateral Agent

This is Exhibit E referred to in the
affidavit of William Aziz
sworn before me, this 29
day of September 2013
[Signature]
A COMMISSIONER FOR TAKING AFFIDAVITS

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EXHIBITS

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Exhibit C FORM OF SUPPLEMENTAL INDENTURE
Exhibit D FORM OF LEASE/LICENSE CERTIFICATE

INDENTURE dated as of April 29, 2011 among Data and Audio-Visual Enterprises Wireless Inc. (the "*Company*"), a corporation organized under the laws of the Province of Ontario, Canada, the Guarantors (as defined below) and Equity Financial Trust Company, as trustee under the Loan and Trust Companies Act and collateral agent for the Notes (as defined below).

WHEREAS the Company deems it necessary for its corporate purposes to create and issue the Notes (as defined herein) to be created and issued in the manner hereinafter appearing;

AND WHEREAS the Company is duly authorized to create and issue the Notes to be issued as herein provided;

AND WHEREAS, when certified by the Trustee and issued as provided in this Indenture, all necessary steps in relation to the Company have been duly enacted, passed and/or confirmed and other proceedings taken and conditions complied with to make the creation and issue of the Notes proposed to be issued hereunder legal, valid and binding on the Company in accordance with the Laws relating to the Company;

now therefore, for good and valuable consideration, the sufficiency of which is acknowledged, the Company and the Guarantors agree as follows for the benefit of each other and for the equal and ratable benefit of the Holders (as defined below) of the 9.5% First Lien Senior Secured Notes due April 29, 2018 (the "*Notes*");

ARTICLE 1 DEFINITIONS

Section 1.01 *Definitions.*

"*Acquired Debt*" means, with respect to any specified Person:

(1) Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, whether or not such Indebtedness is incurred in connection with, or in contemplation of, such other Person merging with or into, or becoming a Restricted Subsidiary of, such specified Person; and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

"*Additional Notes*" means additional Notes (other than the Initial Notes) issued under this Indenture, as part of the same series as the Initial Notes.

"*Affiliate*" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control," as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise; *provided* that beneficial ownership of 10% or more of the Voting Stock of a Person will be deemed to be control. For purposes of this definition, the terms "*controlling*," "*controlled by*" and "*under common control with*" have correlative meanings.

"*Applicable Law*" means applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, statutory rules, principles of common and civil law and equity, terms and conditions of any grant of approval, permission, orders, decrees, rules, regulations and municipal by-laws, whether domestic,

foreign or international; (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, rulings, authority, licence, decrees and awards of any Governmental Entity; and (iii) policies, practices and guidelines of any Governmental Entity, which, although not actually having the force of law, are considered by such Governmental Entity as requiring compliance as if having the force of law, in each case binding on or affecting the Person, or the assets of the Person, referred to in the context in which such word is used, and the term "applicable" with respect to such laws and in the context that refers to one or more Persons, means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Governmental Entity having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities, in each case as such laws may be amended from time to time.

"*Applicable Premium*" means, with respect to any Note on any applicable redemption date, the excess of: (A) the present value at such redemption date of all remaining principal and interest payments due on such note (excluding accrued but unpaid interest to the redemption date), computed using a discount rate equal to the Government of Canada Yield as of such redemption date plus 75 basis points; over (B) the principal amount of such Note.

"*Asset Sale*" means:

- (1) the sale, lease, conveyance or other disposition of any assets or rights; *provided* that the sale, lease, conveyance or other disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries taken as a whole will be governed by the provisions of Section 4.15 hereof and/or Section 5.01 hereof and not by the provisions of Section 4.10 hereof; and
- (2) the issuance or sale of Equity Interests in any of the Company or its Restricted Subsidiaries (other than Holdings).

Notwithstanding the preceding, none of the following items will be deemed to be an Asset Sale:

- (1) any single transaction or series of related transactions that involves assets having a Fair Market Value of less than \$10 million;
- (2) a transfer of assets between or among the Company and its Restricted Subsidiaries (including any Persons that become a Restricted Subsidiary in connection with such transaction);
- (3) an issuance of Equity Interests by a Restricted Subsidiary of the Company to the Company or to a Restricted Subsidiary of the Company;
- (4) the sale or lease of inventory, equipment, products, services or accounts receivable in the ordinary course of business and any sale or other disposition of damaged, worn-out or obsolete assets in the ordinary course of business;
- (5) the sale or maturity or other disposition of cash or Cash Equivalents;
- (6) a Restricted Payment that does not violate the provisions of Section 4.07 hereof;
- (7) a Permitted Investment;

(8) any sale or disposition deemed to occur in connection with creating, granting or enforcing any Permitted Lien; and

(9) any Asset Swap

"Asset Sale Offer" has the meaning set forth in Section 3.09.

"Asset Swap" means a concurrent purchase and sale or exchange of Related Business Assets between the Company or any of its Restricted Subsidiaries and another Person; provided that any cash received must be applied in accordance Section 4.10.

"Attributable Debt" in respect of a sale and leaseback transaction means, at the time of determination, the present value of the obligation of the lessee for net rental payments during the remaining term of the lease included in such sale and leaseback transaction including any period for which such lease has been extended or may, at the option of the lessor, be extended. Such present value shall be calculated using a discount rate equal to the rate of interest implicit in such transaction, determined in accordance with GAAP; *provided, however*, that if such sale and leaseback transaction results in a Capital Lease Obligation, the amount of Indebtedness represented thereby will be determined in accordance with the definition of "Capital Lease Obligation."

"Bankruptcy Law" means the Bankruptcy and Insolvency Act (Canada), the Companies' Creditors Arrangement Act (Canada), or Title 11, U.S. Code, each as amended, or any similar bankruptcy or insolvency law, and other laws concerning formal or informal moratoria of debt or compositions with creditors, and proceedings seeking reorganization, arrangement, or other relief of debtors.

"Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as that term is used in Section 13(d)(3) of the Exchange Act), such "person" will be deemed to have beneficial ownership of all securities that such "person" has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only after the passage of time. The terms "Beneficially Owns" and "Beneficially Owned" have a corresponding meaning.

"Board of Directors" means:

(1) with respect to a corporation, the board of directors of the corporation or any committee thereof duly authorized to act on behalf of such board;

(2) with respect to a partnership, the Board of Directors of the general partner of the partnership;

(3) with respect to a limited liability company, the managing member or members or any controlling committee of managing members thereof; and

(4) with respect to any other Person, the board or committee of such Person serving a similar function.

"Business Day" means any day other than a Legal Holiday.

"Capital Lease Obligation" means, at the time any determination is to be made, the amount of the liability in respect of a capital lease that would at that time be required to be capitalized on a balance sheet prepared in accordance with GAAP.

"Capital Stock" means:

- (1) in the case of a corporation, corporate stock;
- (2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;
- (3) in the case of a partnership or limited liability company, partnership interests (whether general or limited) or membership interests; and
- (4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person, but excluding from all of the foregoing any debt securities convertible into Capital Stock, whether or not such debt securities include any right of participation with Capital Stock.

"Cash Equivalents" means, as at any date of determination:

- (1) United States dollars;
- (2) Canadian dollars;
- (3) marketable securities (a) issued or directly and unconditionally guaranteed as to interest and principal by the United States or Canada and maturing within one year of the date of acquisition thereof or (b) issued by any agency of the United States or Canada the obligations of which are backed by the full faith and credit of the United States or Canada, in each case maturing within one year after the date of acquisition thereof;
- (4) marketable direct obligations issued by any province of Canada or any political subdivision of any such province or any public instrumentality thereof, in each case maturing within one year after the date of acquisition thereof and having a rating of at least A-2 from S&P or at least P-2 from Moody's;
- (5) commercial paper maturing no more than one year from the date of acquisition thereof and having a rating of at least A-2 from S&P, at least P-2 from Moody's or at least R-2 (high) from Dominion Bond Rating Services Limited;
- (6) financial instruments maturing within one year after the date of acquisition thereof and issued by any Canadian chartered bank which has a long-term debt rating of at least A+ by S&P, A2 by Moody's or A (high) by Dominion Bond Rating Services Limited;
- (7) repurchase agreements with a term of not more than 30 days for underlying securities of the types described in clause (1) or (2) entered into with any bank meeting the qualifications specified in clause (4) or (5), which repurchase obligations are secured by a perfected first priority security interest in the underlying securities; and
- (8) shares of any money market mutual fund that has at least 95% all of its assets invested continuously in the types of investments referred to in clauses (1) and (5) above.

"CDS" means CDS Clearing and Depository Services Inc.

"*Change of Control*" occurs where (i) any Person or group of Persons (acting in concert), other than DAVE Investments and Quadrangle, beneficially owns, directly or indirectly, more than 50% of the equity or assets of Holdings or the Company, and (ii) within 180 days of the occurrence of the event set forth in clause (i), a Diminution in Collateral Value has occurred.

"*Change of Control Offer*" has the meaning set forth in Section 4.15(a).

"*Collateral*" means all of the present and future property of the Company and the Guarantors, including but not limited to accounts, chattel paper, documents, equipment, general intangibles, intellectual property, instruments, inventory, property, letter of credit rights, goods, real property, pledges of the Guarantors' equity and all of their rights to the Spectrum Licenses.

"*Collateral Agent*" means Equity Financial Trust Company in its capacity as collateral agent for the Notes until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder in such capacity;

"*Collateral Documents*" means the security agreements, mortgages, and other instruments pursuant to which the Company and the Guarantors shall grant first-priority Liens in the Collateral to the Collateral Agent. The Liens shall be in favour of the Collateral Agent, who shall hold such Liens for the benefit of the Trustee and the Holders of Notes from time to time.

"*Company*" means Data and Audio-Visual Enterprises Wireless Inc., a corporation organized under the laws of the Province of Ontario, Canada and any and all successors thereto.

"*Consolidated EBITDA*" means, with respect to any specified Person for any period, the Consolidated Net Income of such Person for such period *plus*, without duplication:

(1) provision for taxes based on income or profits of such Person and its Restricted Subsidiaries for such period, to the extent that such provision for taxes was deducted in computing such Consolidated Net Income; *plus*

(2) the Consolidated Interest Expense of such Person and its Restricted Subsidiaries for such period, to the extent that such Consolidated Interest Expenses were deducted in computing such Consolidated Net Income; *plus*

(3) depreciation, amortization (including amortization of goodwill and other intangibles but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash expense to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of such Person and its Restricted Subsidiaries for such period to the extent that such depreciation, amortization and other non-cash expenses were deducted in computing such Consolidated Net Income; *plus*

(4) non-cash compensation expense arising from any grant of stock, stock options or other equity-based awards of such Person, in each case to the extent that such non-cash compensation expense was deducted in computing such Consolidated Net Income; *minus*

(5) non-cash items increasing such Consolidated Net Income for such period, other than the accrual of revenue in the ordinary course of business,

in each case, on a consolidated basis and determined in accordance with GAAP.

Notwithstanding the preceding, the provision for taxes based on the income or profits of, and the depreciation and amortization and other non-cash expenses of, a Restricted Subsidiary of the Company shall be added to Consolidated Net Income to compute Consolidated EBITDA of the Company or Holdings only to the extent that a corresponding amount would be permitted at the date of determination to be dividended to the Company or Holdings by such Restricted Subsidiary without prior governmental approval (that has not been obtained), and without direct or indirect restriction pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Restricted Subsidiary or its stockholders.

"Consolidated Indebtedness" means, at any date of determination, with respect to any Person as of any date of determination, the sum, without duplication, of (i) the total amount of Indebtedness of such Person and its Restricted Subsidiaries, plus (ii) the total amount of Indebtedness of any other Person, to the extent that such Indebtedness has been Guaranteed by the referent Person or one or more of its Restricted Subsidiaries, plus (iii) the aggregate liquidation value of all Disqualified Stock of such Person, in each case, determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Expense" means, with respect to any Person for any period, the sum without duplication of (i) the consolidated interest expense of such Person and its Restricted Subsidiaries for such period, whether paid or accrued (including, without limitation, amortization of debt issuance costs and original issue discount, non-cash interest payments, the interest component of any deferred payment obligations, the interest component of all payments associated with Capital Lease Obligations, imputed interest with respect to Attributable Debt, commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings, and net payments (if any) pursuant to Hedging Obligations); and (ii) the consolidated interest expense of such Person and its Restricted Subsidiaries that was capitalized during such period; and (iii) any interest expense on Indebtedness of another Person that is guaranteed by such Person or one of its Restricted Subsidiaries or secured by a Lien on assets of such Person or one of its Restricted Subsidiaries (whether or not such Guarantee or Lien is called upon); and (iv) the product of (a) all dividends, whether paid or accrued, on any series of preferred stock of such Person or any of its Subsidiaries, times (b) a fraction, the numerator of which is one and the denominator of which is one minus the then current combined federal, provincial, state and local or other statutory Canadian or United States tax rate of such Person, expressed as a decimal, in each case, on a consolidated basis and in accordance with GAAP.

"Consolidated Net Income" means, with respect to any specified Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, determined in accordance with GAAP; *provided that*:

- (1) the Net Income (but not loss) of any Person that is not a Restricted Subsidiary or that is accounted for by the equity method of accounting will be included only to the extent of the amount of dividends or similar distributions paid in cash to the specified Person or a Restricted Subsidiary of the Person;
- (2) the Net Income of any Restricted Subsidiary will be excluded to the extent that the declaration or payment of dividends or similar distributions by that Restricted Subsidiary of that Net Income is not at the date of determination permitted without any prior governmental approval (that has not been obtained) or, directly or indirectly, by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, members, managers or partners, as applicable;
- (3) the cumulative effect of a change in accounting principles will be excluded; and

(4) notwithstanding clause (1) above, the Net Income of any Unrestricted Subsidiary will be excluded, whether or not distributed to the specified Person or one of its Subsidiaries.

"*Convertible Debentures*" means Holdings' approximately \$59.7 million aggregate principal amount of convertible debentures outstanding on the Issue Date.

"*Corporate Trust Office of the Trustee*" will be at the address of the Trustee specified in Section 12.02 hereof or such other address as to which the Trustee may give notice to the Company from time to time.

"*DAVE Investments*" means Data & Audio-Visual Enterprises Investments Inc. and any of its Affiliates (other than Holdings, the Company and DAVE Leasing).

"*DAVE Leasing*" means Data & Audio-Visual Enterprises Leasing Inc.

"*Default*" means any event that is, or with the passage of time or the giving of notice or both would be, an Event of Default.

"*Diminution in Collateral Value*" means, as of any date of determination, the ratio of the book value of the Spectrum Licenses and Holdings' property, plant and equipment (as defined by GAAP), each after any applicable acquisition accounting adjustments, to First Priority Indebtedness is below 125%.

"*Depository*" means CDS or such other Person as is designated by the Company to act as a depository in respect of the Global Notes.

"*Disqualified Stock*" means any Capital Stock that, by its terms (or by the terms of any security into which it is convertible, or for which it is exchangeable, in each case, at the option of the holder of the Capital Stock), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or redeemable at the option of the holder of the Capital Stock, in whole or in part, on or prior to the date that is 91 days after the date on which the Notes mature. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require the Company or any of its Restricted Subsidiaries to repurchase such Capital Stock upon the occurrence of a change of control or an asset sale will not constitute Disqualified Stock if the terms of such Capital Stock provide that the Company or its Restricted Subsidiaries may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 4.07 hereof. The amount of Disqualified Stock deemed to be outstanding at any time for purposes of this Indenture will be the maximum amount that the Company and its Restricted Subsidiaries may become obligated to pay upon the maturity of, or pursuant to any mandatory redemption provisions of, such Disqualified Stock, exclusive of accrued dividends.

"*Environmental Law*" means all federal, provincial, state, municipal, country, local and other laws, statutes, codes, ordinances, by-laws, rules, regulations, policies, guidelines, certificates, approvals, permits, consents, directions, standards, judgments, orders and other authorizations, as well as common law, civil and other jurisprudence or authority, in each case domestic or foreign, having the force of law at any time relating in whole or in part to any Environmental Matters and any permit, order, directions, certificate, approval, consent, registration, licence or other authorization of any kind relating to Environmental Matters.

"Environmental Matters" means (a) a condition or substance, heat, energy, sound, vibration, radiation or odour that may affect any component of the earth and its surrounding atmosphere or affect human health or any plant, animal or other living organism; and (b) any waste, toxic substance, contaminant or dangerous good or the deposit, release or discharge of any thereof into any component of the earth and its surrounding atmosphere.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"Equity Offering" means any public or private sale either:

(1) of Equity Interests of Holdings other than Disqualified Stock (other than to a Subsidiary of Holdings or relating to equity securities issuable under any employee benefit or stock option plan of Holdings), or

(2) of Equity Interests of a direct or indirect parent entity of Holdings, (other than to Holdings or a Subsidiary of Holdings) to the extent that the net proceeds therefrom are contributed to the common equity capital of Holdings,

in each case, to any Person other than an Affiliate of Holdings.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Existing Indebtedness" means Indebtedness of Holdings and its Subsidiaries in existence on the date of this Indenture, until such amounts are repaid.

"Fair Market Value" means the value that would be paid by an informed and willing buyer under no compulsion to buy to an unaffiliated willing seller in a transaction not involving distress or necessity of either party, determined in good faith by the Board of Directors of the Company (unless otherwise provided in this Indenture).

"First Priority Indebtedness" means Indebtedness of the Company or any Restricted Subsidiary which is secured by a first priority Lien.

"GAAP" means International Financial Reporting Standards as in effect as of the date of this Indenture.

"Global Note" means a book-entry-only Note representing Notes issued on the Issue Date or on any subsequent date that is registered in the name of the Depository.

"Governmental Authority" means the government of Canada or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank, or other entity exercising executive, legislative, judicial, taxing, regulatory, or administrative powers or functions of or pertaining to government, including any supra-national body such as the European Union or the European Central Bank, and includes a Minister of the Crown, Superintendent of Financial Institutions, or other comparable authority or agency.

"Government of Canada Yield" means, at any redemption date, the average yield to maturity implied by the yields reported as of 10:00 a.m. (Toronto time) on the third Business Day preceding the redemption date, as provided by three major Canadian investment dealers designated by the Company, for actively traded, non-callable Government of Canada securities having a maturity most nearly equal to the

period from the redemption date to the third anniversary of the Issue Date, in accordance with customary financial practice in pricing new issues of corporate debt securities of comparable maturity to the period from the redemption date to the third anniversary of the Issue Date.

"Government Securities" means direct obligations of, or obligations guaranteed by, the Government of Canada (including any agency or instrumentality thereof) for the payment of which obligations or guarantees the full faith and credit of the Government of Canada is pledged and which are not callable or redeemable at the issuer's option.

"Guarantee" means a guarantee other than by endorsement of negotiable instruments for collection in the ordinary course of business, direct or indirect, in any manner including, without limitation, by way of a pledge of assets or through letters of credit or reimbursement agreements in respect thereof, of all or any part of any Indebtedness (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services, to take or pay or to maintain financial statement conditions or otherwise).

"Guarantors" means Data and Audio-Visual Enterprises Holdings Inc., Data & Audio-Visual Enterprises Leasing Inc. and all of Data and Audio-Visual Enterprises Wireless Inc.'s future Restricted Subsidiaries, their respective successors and assigns, in each case, until the Note Guarantee of such Person has been released in accordance with the provisions of this Indenture.

"Hedging Obligations" means, with respect to any specified Person, the obligations of such Person under:

- (1) interest rate swap agreements (whether from fixed to floating or from floating to fixed), interest rate cap agreements and interest rate collar agreements;
- (2) other agreements or arrangements designed to manage interest rates or interest rate risk; and
- (3) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange rates.

"Holder" means a Person in whose name a Note is registered.

"Holdings" means Data and Audio-Visual Enterprises Holdings Inc.

"Immaterial Subsidiary" means, as of any date, any Restricted Subsidiary whose total assets, as of that date, are less than \$400,000 and whose total revenues for the most recent 12-month period for which financial statements are available do not exceed \$400,000; *provided* that all Restricted Subsidiaries designated as Immaterial Subsidiaries may not in the aggregate have at the end of any fiscal quarter (x) total assets in excess of \$4,000,000 or (y) total revenues in the prior 12-month period in excess of \$4,000,000, in each case determined based upon the internal financial statements for the relevant fiscal quarter(s); *provided* further that a Restricted Subsidiary will not be considered to be an Immaterial Subsidiary if it, directly or indirectly, guarantees or otherwise provides direct credit support for any Indebtedness of the Company. Upon any Restricted Subsidiary ceasing to comply with the foregoing requirements, Holdings and such Restricted Subsidiary will, to the extent necessary, comply with the provisions set forth under Section 4.18 of this Indenture.

"Indebtedness" means, with respect to any Person, (without duplication):

(a) all indebtedness under or in respect of any bill, bond, debenture, note or similar instrument;

(b) all indebtedness under or in respect of any acceptance, endorsement or discounting arrangement (other than endorsing cheques in the ordinary course of business);

(c) all indebtedness under or in respect of any deferred purchase price of any asset or service due more than 180 days after such property is acquired or such services are completed. For greater clarity, indebtedness under this clause shall not include liabilities that result from the accounting treatment of long-term contracts (more than 365 days), where the payment dates and amounts are fixed throughout the term of such contracts, and such payments do not become due or payable until the services for the corresponding time period have been performed;

(d) all obligations of another Person secured by a Lien on any properties or assets of such Person, to the extent of the value of such property where such Person has not assumed or otherwise become liable for the payment of such obligations;

(e) all Capital Lease Obligations and Attributable Debt of such Person;

(f) reimbursement obligations in respect of any letters of credit other than any reimbursement obligations provided for in the purchase or other documentation relating to purchased assets or services;

(g) the net amount of all Hedging Obligations of such Person (determined on marked-to-market basis); and

(h) all Guarantees of the Indebtedness of others by such Person.

"Indenture" means this Indenture, as amended or supplemented from time to time.

"Initial Notes" means the first \$195,000,000 aggregate principal amount of Notes issued under this Indenture on the date hereof.

"Investments" means, with respect to any Person, all direct or indirect investments by such Person in other Persons (including Affiliates) in the forms of loans (including Guarantees or other obligations), advances or capital contributions (excluding commission, travel and similar advances to officers, directors and employees made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities, together with all items that are or would be classified as investments on a balance sheet prepared in accordance with GAAP. If the Company or any Restricted Subsidiary of the Company sells or otherwise disposes of any Equity Interests of any direct or indirect Restricted Subsidiary of the Company such that, after giving effect to any such sale or disposition, such Person is no longer a Restricted Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to the Fair Market Value of the Company's Investments in such Restricted Subsidiary that were not sold or disposed of in an amount determined as provided in the final paragraph of Section 4.07 hereof. The acquisition by the Company or any Restricted Subsidiary of the Company of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person in an amount determined as provided in the final paragraph of Section 4.07 hereof. Except as otherwise provided in this Indenture, the amount of an Investment will be determined at the time the Investment is made and without giving effect to subsequent changes in value.

"IPO" means (i) the first registration or qualification of equity or equity-like securities of Holdings or any of its Subsidiaries under a prospectus, for which a final receipt has been granted by the applicable securities regulatory authority, (ii) any transaction or series of transactions, involving an acquisition by Holdings (or any of its Subsidiaries) or of Holdings (or any of its Subsidiaries), and an equity or equity-like security issuance by Holdings or such Subsidiary, that results in Holdings or such Subsidiary becoming a reporting issuer (as such term is defined in applicable securities legislation) in Canada, or the equivalent in a foreign jurisdiction.

"Issue Date" means the date on which the Notes are originally issued under this Indenture being the date hereof.

"Lease" means a lease agreement relating to any Real Property to which any of the Company or any Guarantor is a party, as lessee, and which entitles such Person to the use of such Real Property for the purpose of operating its business.

"Lease/License Certificate" means a certificate substantially in the form set out in Exhibit D.

"Legal Holiday" means a Saturday, a Sunday or a day on which banking institutions in the City of Toronto are authorized by law, regulation or executive order to remain closed. If a payment date is a Legal Holiday, payment may be made on the next succeeding day that is not a Legal Holiday.

"Licence" means a licence agreement relating to any Real Property to which the Company or any Guarantor is a party, as licensee and which entitles such Person to use such Real Property for the purpose of operating its business.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law, including any conditional sale or other title retention agreement, any lease in the nature thereof, any option or other agreement to sell or give a security interest in and any filing of or agreement to give any financing statement under the *Personal Property Security Act* (Ontario), the Uniform Commercial Code (or any equivalent statutes) of any jurisdiction.

"Material Adverse Effect" means a material adverse effect on:

(a) the business, condition (financial or otherwise), operations, performance, property or assets of the Company, Holdings or Dave Leasing;

(b) the ability of the Company, Holdings or Dave Leasing to perform (i) any of its payment obligations, and/or (ii) any of its other material obligations under any of the Collateral Documents; and

(c) the validity or enforceability of, or the effectiveness or ranking of any Lien granted or purporting to be granted pursuant to, any of the Collateral Documents or the rights or remedies of any party under any of the Collateral Documents.

"Moody's" means Moody's Investors Service, Inc.

"Net Income" means, with respect to any specified Person, the net income (loss) of such Person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends, excluding, however:

(1) any gain or loss, together with any related provision for taxes on such gain or loss, realized in connection with:

(a) any Asset Sale; or

(b) the disposition of any securities by such Person or any of its Restricted Subsidiaries or the extinguishment of any Indebtedness of such Person or any of its Restricted Subsidiaries; and

(2) any extraordinary gain or loss, together with any related provision for taxes on such extraordinary gain or loss.

"Net Proceeds" means the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries in respect of any Asset Sale (including, without limitation, any cash received upon the sale or other disposition of any non-cash consideration received in any Asset Sale but only when received), net of the direct costs relating to such Asset Sale, including, without limitation, legal, accounting and investment banking fees, and sales commissions, and any relocation or severance expenses incurred as a result of the Asset Sale, taxes paid or payable as a result of the Asset Sale, in each case, after taking into account any available tax credits or deductions and any tax sharing arrangements, and amounts required to be applied to the repayment of Indebtedness secured by a Lien on the asset or assets that were the subject of such Asset Sale or other transaction and any reserve for adjustment in respect of the sale price of such asset or assets established in accordance with GAAP.

"New Convertible Debentures" means convertible debentures issued pursuant to the Quadrangle Facility after the Issue Date that are Subordinated Indebtedness and includes any such convertible debentures which have been issued in payment of accrued interest under any such outstanding convertible debentures.

"Non-Recourse Debt" means Indebtedness:

(1) as to which neither the Company nor any of its Restricted Subsidiaries (a) provides credit support of any kind (including any undertaking, agreement or instrument that would constitute Indebtedness), (b) is directly or indirectly liable as a guarantor or otherwise, or (c) constitutes the lender;

(2) no default with respect to which (including any rights that the holders of the Indebtedness may have to take enforcement action against an Unrestricted Subsidiary) would permit upon notice, lapse of time or both any holder of any other Indebtedness of the Company or any of its Restricted Subsidiaries to declare a default on such other Indebtedness or cause the payment of the Indebtedness to be accelerated or payable prior to its Stated Maturity; and

(3) as to which the lenders have been notified in writing that they will not have any recourse to the stock or assets of the Company or any of its Restricted Subsidiaries.

"Note Guarantee" means the Guarantee by each Guarantor of the Company's obligations under this Indenture and the Notes, executed pursuant to the provisions of this Indenture.

"Notes" has the meaning assigned to it in the preamble to this Indenture. The Initial Notes and the Additional Notes shall be treated as a single class for all purposes under this Indenture, and unless the context otherwise requires, all references to the Notes shall include the Initial Notes and any Additional Notes.

"Obligations" means any principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities payable under the documentation governing any Indebtedness.

"Officer" means, with respect to any Person, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Operating Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the Controller, the Secretary or any Vice-President of such Person.

"Officers' Certificate" means a certificate signed on behalf of the Company by two Officers of the Company, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of the Company, that meets the requirements of Section 12.04 hereof.

"Opinion of Counsel" means an opinion from legal counsel who is reasonably acceptable to the Trustee, that meets the requirements of Section 12.04 hereof. The counsel may be an employee of or counsel to the Company, any Subsidiary of the Company or the Trustee.

"OSC" means the Ontario Securities Commission.

"Participant" means a Person that has an account with a Depository and uses the book-entry-only services of the Depository on its own behalf or on behalf of beneficial owners of securities who are the clients or customers of that Person.

"Permitted Business" means any business conducted by the Company or any Restricted Subsidiary on the date of this Indenture and any businesses that, in the good faith judgment of the Board of Directors of the Company, are similar, reasonably related, ancillary or complementary thereto, or reasonable extensions or expansions thereof, including in connection with the Company existing and future technology, trademarks, patents or licenses.

"Permitted Investments" means:

- (1) any Investment in the Company or in a Restricted Subsidiary of the Company;
- (2) any Investment in Cash Equivalents;
- (3) any Investment by the Company or any Restricted Subsidiary of the Company in a Person, if as a result of such Investment:
 - (a) such Person becomes a Restricted Subsidiary of the Company; or
 - (b) such Person is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company;
- (4) any Investment made as a result of the receipt of non-cash consideration from an Asset Sale that was made pursuant to and in compliance with Section 4.10;
- (5) any acquisition of assets or Capital Stock solely in exchange for the issuance of Equity Interests (other than Disqualified Stock) of the Company or any of its Restricted Subsidiaries;

(6) any Investments received in compromise or resolution of (A) obligations of trade creditors or customers that were incurred in the ordinary course of business of the Company or any of its Restricted Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor or customer; or (B) litigation, arbitration or other disputes with Persons who are not Affiliates;

(7) Investments represented by Hedging Obligations permitted by this Indenture;

(8) repurchases of the Notes;

(9) Investments in existence on the date of this Indenture; and

(10) other Investments in any Person having an aggregate Fair Market Value (measured on the date each such Investment was made and without giving effect to subsequent changes in value), when taken together with all other Investments made pursuant to this clause (10) that are at the time outstanding not to exceed \$2.5 million.

"Permitted Liens" means:

(1) Liens in favor of the Company or the Guarantors;

(2) Liens on property, or on shares of Stock or Indebtedness, of a Person existing at the time such Person is merged with or into, amalgamated with, or consolidated with Holdings or any Subsidiary of Holdings; *provided* that such Liens were in existence prior to the contemplation of such merger, amalgamation or consolidation and do not extend to any assets other than those of the Person merged into, amalgamated with, or consolidated with Holdings or the Subsidiary;

(3) Liens on property (including Capital Stock) existing at the time of acquisition of the property by Holdings or any Subsidiary of Holdings; *provided* that such Liens were in existence prior to, and not incurred in contemplation of, such acquisition;

(4) Liens to secure the performance of bids, tenders, leases, statutory obligations, surety or appeal bonds, performance bonds or other obligations of a like nature incurred in the ordinary course of business;

(5) Liens to secure Indebtedness (including Capital Lease Obligations) permitted by Section 4.09(b)(3);

(6) Liens existing on the date of this Indenture;

(7) Liens for taxes, assessments or governmental charges or claims that are not yet delinquent or that are being contested in good faith by appropriate proceedings promptly instituted and diligently concluded; *provided* that any reserve or other appropriate provision as is required in conformity with GAAP has been made therefor;

(8) Liens imposed by law, such as carriers', warehousemen's, landlord's and mechanics' Liens, in each case, incurred in the ordinary course of business;

(9) survey exceptions, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, or

zoning or other restrictions as to the use of real property that were not incurred in connection with Indebtedness and that do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(10) Liens created for the benefit of (or to secure) the Notes or the Note Guarantees;

(11) Liens to secure any Permitted Refinancing Indebtedness permitted to be incurred under this Indenture; *provided, however, that:*

(a) the new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (plus improvements and accessions to, such property or proceeds or distributions thereof);

(b) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (x) the outstanding principal amount, or, if greater, committed amount, of the Permitted Refinancing Indebtedness and (y) an amount necessary to pay any fees and expenses, including premiums, related to such renewal, refunding, refinancing, replacement, defeasance or discharge;

(12) Liens to secure Indebtedness (including Hedging Obligations) permitted by Section 4.09(b)(6);

(13) Liens to secure First Priority Indebtedness permitted by Section 4.09(b)(11); and

(14) Liens incurred in the ordinary course of business of Holdings or any Subsidiary of Holdings with respect to obligations that do not exceed \$5.0 million at any one time outstanding.

"Permitted Refinancing Indebtedness" means any Indebtedness of the Company or any of its Restricted Subsidiaries issued in exchange for, or the net proceeds of which are used to extend, renew, refund, refinance, replace, defease or discharge other Indebtedness of the Company or any of its Restricted Subsidiaries (other than intercompany Indebtedness); *provided that:*

(1) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness extended, renewed, refunded, refinanced, replaced, defeased or discharged (plus all accrued interest on the Indebtedness and the amount of all fees and expenses, including premiums, incurred in connection therewith);

(2) such Permitted Refinancing Indebtedness has a final maturity date later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being extended, renewed, refunded, refinanced, replaced, defeased or discharged;

(3) if the Indebtedness being extended, renewed, refunded, refinanced, replaced, defeased or discharged is subordinated in right of payment to the Notes, such Permitted Refinancing Indebtedness is subordinated in right of payment to, the Notes on terms at least as favorable to the Holders of Notes as those contained in the documentation governing the Indebtedness being extended, renewed, refunded, refinanced, replaced, defeased or discharged; and

(4) such Indebtedness is incurred either by the Company or by the Restricted Subsidiary who is the obligor on the Indebtedness being extended, renewed, refunded, refinanced, replaced, defeased or discharged.

"Person" means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, limited liability company or government or other entity.

"Quadrangle" means QCP CW S.A.R.L and any of its Affiliates.

"Quadrangle Facility" means the Commitment Agreement dated September 25, 2009, among Holdings, Quadrangle and DAVE Investments, as amended.

"Real Property" means:

(a) any freehold, leasehold or immovable property; and

(b) any buildings, fixtures, fittings, fixed plant or machinery from time to time situated on or forming part of that freehold, leasehold or immovable property.

"Register" means a register kept by the Trustee at such place as the Trustee may designate in which shall be entered the names and latest known addresses of Holders and the other particulars, as prescribed by law, of the Notes held by each of them and of all transfers of such Notes.

"Refinance" means, in respect of any Indebtedness, to refinance, extend, renew, refund, repay, prepay, redeem, replace, defease or retire, or to issue other Indebtedness in exchange or replacement for, such Indebtedness. *"Refinanced"* and *"Refinancing"* shall have correlative meanings.

"Related Business Assets" means assets used or useful in a Permitted Business.

"Relevant Taxing Jurisdiction" has the meaning set forth in Section 4.20.

"Responsible Officer," when used with respect to the Trustee, means any officer within the Corporate Trust Office of the Trustee (or any successor group of the Trustee) or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Restricted Investment" means an Investment other than a Permitted Investment.

"Restricted Subsidiary" of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary, provided, that Holdings shall be a Restricted Subsidiary of the Company.

"S&P" means Standard & Poor's Ratings Group.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the United States Securities Act of 1933, as amended.

"Significant Subsidiary" means any Subsidiary that would be a "significant subsidiary" as defined in Article 1, Rule 1-02 of Regulation S-X, promulgated pursuant to the Securities Act, as such Regulation is in effect on the date of this Indenture.

"Spectrum Licenses" means each of the AWS spectrum licenses issued, under the authority of the Minister of Industry Canada in accordance with the *Radiocommunication Act* (Canada) and the Radiocommunications Regulations, to the Company by Industry Canada on February 11, 2009, and for purposes of the definition of Diminution in Collateral Value, includes any AWS spectrum licenses issued to the Company or any Restricted Subsidiary after the date of this Indenture.

"Stated Maturity" means, with respect to any installment of interest or principal on any series of Indebtedness, the date on which the payment of interest or principal was scheduled to be paid in the original documentation governing such Indebtedness, and will not include any contingent obligations to repay, redeem or repurchase any such interest or principal prior to the date originally scheduled for the payment thereof.

"Subordinated Convertible Debentures" means Subordinated Indebtedness that has (a) a final maturity later than March 24, 2019, and (b) a Weighted Average Life to Maturity greater than the Weighted Average Life to Maturity of the Subordinated Debentures; provided that Subordinated Convertible Debentures may only be issued subsequent to an IPO.

"Subordinated Debentures" means the senior unsecured debentures issued pursuant to the Trust Indenture dated December 17, 2009 between Holdings and Equity Transfer & Trust Company as amended and restated on the Issue Date.

"Subordinated Indebtedness" means Indebtedness of Holdings that is expressly subordinated to the Subordinated Debentures and is not guaranteed by the Company or any of its subsidiaries.

"Subsidiary" means, with respect to any specified Person:

(1) any corporation, association or other business entity of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency and after giving effect to any voting agreement or stockholders' agreement that effectively transfers voting power) to vote in the election of directors, managers or trustees of the corporation, association or other business entity is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person (or a combination thereof); and

(2) any partnership (a) the sole general partner or the managing general partner of which is such Person or a Subsidiary of such Person or (b) the only general partners of which are that Person or one or more Subsidiaries of that Person (or any combination thereof).

"Total Incremental Equity" means 100% of the aggregate (i) net cash proceeds received by the Company and its Restricted Subsidiaries since the date of this Indenture as a contribution to its common equity capital or from the issue or sale of Equity Interests (other than Disqualified Stock) of the Company and its Restricted Subsidiaries or from the issue or sale of convertible or exchangeable Disqualified Stock or convertible or exchangeable debt securities or other debt obligations of the Company and its Restricted Subsidiaries that have been converted into or exchanged for such Equity Interests (other than Disqualified Stock) (other than Equity Interests (other than Disqualified Stock) (or Disqualified Stock or debt securities) sold to a Subsidiary of Holdings) or (ii) the Fair Market Value of the consideration (if other than cash) from the issue or sale of Equity Interests (other than Disqualified Stock) of the Company and its Restricted Subsidiaries, in each case excluding Equity Interests sold to, or indebtedness held by, a Subsidiary of Holdings.

"Trustee" means Equity Financial Trust Company in its capacity as trustee and collateral agent for the Notes until a successor replaces it in accordance with the applicable provisions of this Indenture and thereafter means the successor serving hereunder in such capacity.

"Unrestricted Subsidiary" means any Subsidiary of the Company that is designated by the Board of Directors of the Company as an Unrestricted Subsidiary pursuant to a resolution of the Board of Directors, but only to the extent that such Subsidiary:

- (1) has no Indebtedness other than Non-Recourse Debt;
- (2) except as permitted by Section 4.11 hereof, is not party to any agreement, contract, arrangement or understanding with the Company or any Restricted Subsidiary of the Company unless the terms of any such agreement, contract, arrangement or understanding are no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;
- (3) is a Person with respect to which neither the Company nor any of its Restricted Subsidiaries has any direct or indirect obligation (a) to subscribe for additional Equity Interests or (b) to maintain or preserve such Person's financial condition or to cause such Person to achieve any specified levels of operating results;
- (4) has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries; and
- (5) individually and together with all other Unrestricted Subsidiaries, has assets that comprise less than 10% of the total assets of Holdings (on a consolidated basis) on such date, and, individually and together with all other Unrestricted Subsidiaries, generates less than 10% of the Consolidated EBITDA of Holdings for the four most recently completed fiscal quarters.

"Voting Stock" of any specified Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing:

- (1) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect of the Indebtedness, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; *by*
- (2) the then outstanding principal amount of such Indebtedness.

Section 1.02 *Rules of Construction.*

Unless the context otherwise requires:

- (1) a term has the meaning assigned to it;
- (2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

- (3) "or" is not exclusive;
- (4) words in the singular include the plural, and in the plural include the singular;
- (5) "will" shall be interpreted to express a command;
- (6) provisions apply to successive events and transactions; and
- (7) references to sections of or rules under the Securities Act will be deemed to include substitute, replacement of successor sections or rules adopted by the SEC from time to time.

ARTICLE 2 THE NOTES

Section 2.01 *Form and Dating.*

There is hereby established the Notes to be issued under this Indenture, which are designated as the Company's "9.5% First Lien Senior Secured Notes due April 29, 2018". The aggregate principal amount of Notes authorized to be issued under this Indenture is unlimited and may be issued in one or more series, but Notes may only be issued upon and subject to the conditions and limitations herein set forth.

The Notes and the Trustee's certificate of certification will be substantially in the form of Exhibit A hereto. The Notes may have notations, legends or endorsements required by law, stock exchange rule or usage. Each Note will be dated the date of its certification. The Notes shall be in minimum denominations of \$2,000 and integral multiples of \$1,000.

The Company will pay interest on the principal amount of the Notes at 9.5% per annum from the date of this Indenture until maturity which is April 29, 2018. The Company will pay interest semi-annually in arrears on March 31 and September 30 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an "*Interest Payment Date*"). The first Interest Payment Date shall be September 30, 2011. The Company will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the rate equal to 1% per annum in excess of the then applicable interest rate on the Notes to the extent lawful; it will pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (without regard to any applicable grace period) at the same rate to the extent lawful.

Interest will be computed on the basis of a 365-day year. In the case of any interest period that is shorter than a full semi-annual interest period, interest will be calculated on the basis of a 365-day year and the actual number of days elapsed in that period.

The terms and provisions contained in the Notes will constitute, and are hereby expressly made, a part of this Indenture and the Company, the Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

Section 2.02 *Execution and Certification.*

At least one Officer must sign the Notes for the Company by manual or facsimile signature.

If an Officer whose signature is on a Note no longer holds that office at the time a Note is certificated, the Note will nevertheless be valid.

A Note will not be valid until certified by the manual signature of the Trustee. The signature will be conclusive evidence that the Note has been certified under this Indenture. The certification of the Trustee on the Notes issued hereunder shall not be construed as a representation or warranty by the Trustee as to the validity of the Indenture or the Notes (except the due certification thereof) and the Trustee shall in no respect be liable or answerable for the use made of the Notes or any of them or of the consideration therefor except as otherwise specified herein.

The Trustee will, upon receipt of a written order of the Company signed by at least one Officer (a "Certification Order"), certify Notes for original issue that may be validly issued under this Indenture, including any Additional Notes. The aggregate principal amount of Notes outstanding at any time may not exceed the aggregate principal amount of Notes authorized for issuance by the Company pursuant to one or more Certification Orders.

The Trustee may appoint an certification agent acceptable to the Company to certify Notes. A certification agent may certify Notes whenever the Trustee may do so. Each reference in this Indenture to certification by the Trustee includes certification by such agent.

Section 2.03 *Book-Entry-Only Securities*

The Notes issued on the date of this Indenture and any Additional Notes shall be issued as book-entry-only securities and shall be represented by one or more Global Notes registered in the name of the appropriate Depository. Participants and holders of beneficial interests in a Global Note shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository or under such Global Note, and as the registered Holder of the Global Note the Depository shall be considered to be the sole owner and Holder of the Notes represented by the Global Note for all purposes under this Indenture and the Notes. Principal of and premium, if any, and interest on the Notes shall be payable by the Company solely to the Depository. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee, or any agent of the Company or the Trustee from giving effect to any written certification, proxy, or other authorization furnished by the Depository or impair, as between the Depository and its Participants or holders of beneficial interests in any Global Note, the operation of customary practices of the Depository governing the exercise of the rights of holders of beneficial interests in any Global Note.

Section 2.04 *Register*

The Trustee shall maintain a Register recording the names and addresses of the Holders and particulars of the Notes held by such Holders and an office or agency where Notes may be presented for payment ("Paying Agent"). At its election, the Company may act as Paying Agent.

Section 2.05 *Limited Registration Rights.*

No Notes or other instruments evidencing ownership of Notes shall be issued other than to the Depository unless

- (a) the issuance of such Notes or instruments is required by Applicable Law;
- (b) the book-entry-only system is no longer available to the Company;

- (c) the Depository advises the Trustee that it is no longer willing or able to discharge properly its responsibilities as depository with respect to the Notes, and the Company cannot locate or elects not to appoint a qualified successor;
- (d) the Depository ceases to be a recognized clearing agency under Applicable Law or otherwise ceases to be eligible to be a depository and a successor depository is not appointed;
- (e) the Company, at its option, decides to no longer utilize the book-entry-only system; or
- (f) after the occurrence of an Event of Default, the Depository advises the Trustee that it has received written notification from Participants, acting on behalf of beneficial owners representing in the aggregate more than 50% of the aggregate principal amount of the Notes then outstanding, that the continuance of the book-entry-only system is no longer in the best interests of such beneficial owners.

In each of such events, each Global Note shall be cancelled by the Trustee or an agent of the Company or the Trustee and owners of beneficial interests in the Notes shall become entitled to receive Notes in fully registered form in denominations of \$2,000 and integral multiples of \$1,000, certified by the Trustee upon written direction from the Company and including such legends and other notations as may be required to comply with the laws applicable to the Company and such owners at such time.

Section 2.06 *Global Note Legends*

(a) Every Note in which a beneficial interest is sold to a purchaser in Canada shall bear a legend in substantially the following form or in such other form, if any, as may be required by Applicable Law at the time such Note is certified by the Trustee:

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) APRIL 29, 2011, AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY.

(b) Every Note in which a beneficial interest is sold to a purchaser in the United States of America shall bear a legend in substantially the following form or in such other form, if any, as may be required by Applicable Law at the time such Note is certified by the Trustee:

"THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY STATE SECURITIES LAW AND MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE ISSUER, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT, (C) WITHIN THE UNITED STATES IN COMPLIANCE WITH (I) RULE 144 UNDER THE ACT, OR (II) RULE 144A UNDER THE ACT, AND IN EACH CASE IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE ACT OR ANY APPLICABLE STATE SECURITIES LAWS, AND THE HOLDER HAS, PRIOR TO SUCH SALE, FURNISHED TO THE ISSUER AN OPINION OF COUNSEL SATISFACTORY TO THE ISSUER.

DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA. AT ANY TIME THAT THE ISSUER IS A "FOREIGN ISSUER" (AS DEFINED IN RULE 902 UNDER

THE ACT), A NEW CERTIFICATE, BEARING NO LEGEND, THE DELIVERY OF WHICH WILL CONSTITUTE "GOOD DELIVERY" MAY BE OBTAINED FROM THE TRUSTEE UPON DELIVERY OF THIS CERTIFICATE AND A DULY EXECUTED DECLARATION, IN A FORM SATISFACTORY TO THE TRUSTEE, TO THE EFFECT THAT THE SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT AND, IF REQUESTED BY THE ISSUER OR THE TRUSTEE, AN OPINION OF COUNSEL OF RECOGNIZED STANDING, EACH IN A FORM SATISFACTORY TO THE TRUSTEE AND THE ISSUER, TO THE EFFECT THAT SUCH SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT."

Section 2.07 *Ownership and Entitlement to Payment*

The Person in whose name a Note, including a Global Note, is registered shall be deemed to be the beneficial owner thereof for all purposes of this Indenture and payment of or on account of the principal of and premium, if any, and interest on such Note shall be made only to or upon the order in writing of such Person, and each such payment shall be a good and sufficient discharge to the Company and the Trustee for the amount so paid.

Notwithstanding any other provision of this Indenture, all payments in respect of Notes represented by a Global Note shall be made to the Depository for subsequent payment by the Depository to those Participants that the records of the Depository indicate have clients or customers that have beneficial ownership interests in such Global Note.

The Trustee shall maintain accounts and records evidencing each payment of principal of and premium and interest on the Notes, which accounts and records shall constitute, in the absence of manifest error, prima facie evidence thereof.

Neither the Company nor the Trustee shall have any responsibility or liability for maintaining, supervising, or reviewing records of the Depository or its Participants relating to payments made or to be made by the Depository or by any of its Participants on account of beneficial ownership interests in the Notes or for maintaining, reviewing, or supervising any records relating to such beneficial ownership interests. Participants must look solely to the Depository, and Persons other than Participants having an interest in the Notes must look solely to Participants, for payments made by or on behalf of the Company to the Depository in respect of the Notes.

Section 2.08 *Restrictions on Transfer of Global Notes*

Notwithstanding any other provision of this Indenture, a Global Note registered in the name of a Depository may not be transferred by the Depository except in the following circumstances:

- (a) such Global Note may be transferred by the Depository to a nominee of the Depository or by a nominee of the Depository to the Depository or to another nominee of the Depository or by the Depository or a nominee of the Depository to a successor depository or its nominee;
- (b) such Global Note may be transferred at any time after the Depository has notified the Company that it is unwilling or unable or no longer eligible to continue as depository for such Global Note;

- (c) such Global Note may be transferred at any time after the Company has determined, in its sole discretion, that the Notes represented by such Global Note shall no longer be held as book-entry-only securities; and
- (d) such Global Note may be transferred at any time after the Trustee has determined that an Event of Default has occurred and is continuing with respect to the Notes issued in the form of such Global Note, provided that at the time of such transfer such Event of Default has not been waived in accordance with the provisions of this Indenture.

In each such case, Notes in fully registered form shall be issued in accordance with Section 2.05.

Section 2.09 *Transfers of Beneficial Interests in Global Note.*

The transfer of beneficial interests in a Global Note shall be effected through the Depository in accordance with the provisions of this Indenture and the rules and procedures of the Depository that apply to such transfer. Beneficial interests in a Global Note shall be subject to restrictions on transfer to the extent required by Applicable Law and may be transferred in accordance with the transfer restrictions set forth in any applicable legends on the Global Note. No written orders or instructions shall be required to be delivered to the Trustee to effect the transfers described in this Section 2.09.

Section 2.10 *Voting.*

In determining whether the Holders of the required principal amount of Notes have concurred in any amendment, supplement, direction, waiver or consent, Notes owned by the Company or any Guarantor, or by any Affiliate of the Company or any Guarantor will be disregarded and considered as though not outstanding.

Section 2.11 *Defaulted Interest.*

If the Company defaults in a payment of interest on the Notes, it will pay the defaulted interest in any lawful manner plus, to the extent lawful, interest payable on the defaulted interest, to the Persons who are Holders on a subsequent special record date, in each case at the rate provided in the Notes and in Section 4.01 hereof. The Company will notify the Trustee in writing of the amount of defaulted interest proposed to be paid on each Note and the date of the proposed payment. The Company will fix or cause to be fixed each such special record date and payment date; *provided* that no such special record date may be less than 10 days prior to the related payment date for such defaulted interest. At least 15 days before the special record date, the Company (or, upon the written request of the Company, the Trustee in the name and at the expense of the Company) will mail or cause to be mailed to Holders a notice that states the special record date, the related payment date and the amount of such interest to be paid.

Section 2.12 *Interest Act.*

Each interest rate that is calculated on the Notes on any basis other than the actual number of days in a calendar year (the "**deemed interest period**") is solely for the purposes of the *Interest Act* (Canada) equivalent to a yearly rate calculated by dividing such interest rate by the number of days in the deemed interest period, then multiplying such result by the actual number of days in the calendar year.

ARTICLE 3 REDEMPTION AND PREPAYMENT

Section 3.01 *Notices to Trustee.*

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 3.07 hereof, it must furnish to the Trustee, at least 30 days but not more than 60 days before a redemption date, an Officers' Certificate setting forth:

- (1) the clause of this Indenture pursuant to which the redemption shall occur;
- (2) the redemption date;
- (3) the principal amount of Notes to be redeemed; and
- (4) the redemption price.

Section 3.02 *Selection of Notes to Be Redeemed or Purchased.*

If less than all of the Notes are to be redeemed or purchased in an offer to purchase at any time (including pursuant to a redemption, Change of Control Offer or Asset Sale Offer), the Trustee will select Notes for redemption or purchase on a *pro rata* basis unless otherwise required by law or applicable stock exchange requirements.

In the event of partial redemption or purchase by lot, the particular Notes to be redeemed or purchased will be selected, unless otherwise provided herein, not less than 30 nor more than 60 days prior to the redemption or purchase date by the Trustee from the outstanding Notes not previously called for redemption or purchase.

The Trustee will promptly notify the Company in writing of the Notes selected for redemption or purchase and, in the case of any Note selected for partial redemption or purchase, the principal amount thereof to be redeemed or purchased. Except as provided in the preceding sentence, provisions of this Indenture that apply to Notes called for redemption or purchase also apply to portions of Notes called for redemption or purchase.

Section 3.03 *Notice of Redemption.*

Subject to the provisions of Section 3.07 and 3.09 hereof, at least 30 days but not more than 60 days before a redemption date, the Company will mail or cause to be mailed, by first class mail, a notice of redemption to each Holder whose Notes are to be redeemed at its registered address, except that redemption notices may be mailed more than 60 days prior to a redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture pursuant to Articles 8 or 11 hereof.

The notice will identify the Notes to be redeemed and will state:

- (1) the redemption date;
- (2) the redemption price;
- (3) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the redemption date upon surrender of such Note, a new

Note or Notes in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Note;

- (4) the name and address of the Paying Agent;
- (5) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price;
- (6) that, unless the Company defaults in making such redemption payment, interest on Notes called for redemption ceases to accrue on and after the redemption date;
- (7) the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed; and
- (8) that no representation is made as to the correctness or accuracy of the CUSIP number, if any, listed in such notice or printed on the Notes.

At the Company's request, the Trustee will give the notice of redemption in the Company's name and at its expense; *provided, however*, that the Company has delivered to the Trustee, at least 45 days prior to the redemption date, an Officers' Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding paragraph.

Section 3.04 *Effect of Notice of Redemption.*

Once notice of redemption is mailed in accordance with Section 3.03 hereof, Notes called for redemption become irrevocably due and payable on the redemption date at the redemption price. A notice of redemption may not be conditional.

Section 3.05 *Deposit of Redemption or Purchase Price.*

One Business Day prior to the redemption or purchase date, the Company will deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of and accrued interest on all Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent will promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption or purchase price of, and accrued interest on, all Notes to be redeemed or purchased.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest will cease to accrue on the Notes or the portions of Notes called for redemption or purchase. If a Note is redeemed or purchased on or after an interest record date but on or prior to the related interest payment date, then any accrued and unpaid interest shall be paid to the Person in whose name such Note was registered at the close of business on such record date. If any Note called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 4.01 hereof.

Section 3.06 *Notes Redeemed or Purchased in Part.*

Upon surrender of a Note that is redeemed or purchased in part, the Company will issue and, upon receipt of an Certification Order, the Trustee will certify for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered.

Section 3.07 *Optional Redemption.*

(a) At any time and from time to time prior to the third anniversary of the Issue Date, upon not less than 30 nor more than 60 days' prior written notice, the Company, at its option, may redeem the Notes, in whole or in part, at a redemption price equal to the sum of (i) 100% of the principal amount of the Notes to be redeemed, *plus* (ii) the greater of (x) the Applicable Premium as of the redemption date and (y) 1%, *plus* (iii) accrued and unpaid interest on such Notes to but not including the redemption date (subject to the right of holders of the notes on the relevant record date to receive interest due on an interest payment date falling on or prior to the redemption date).

(b) At any time and from time to time prior to the third anniversary of the Issue Date, upon not less than 30 nor more than 60 days' prior written notice, the Company, at its option, may redeem up to 35% of the aggregate principal amount of the Notes, in whole or in part, at a redemption price equal to 109.5% of the principal amount of the Notes to be redeemed *plus* accrued and unpaid interest on such Notes to but not including the redemption date (subject to the right of holders of the notes on the relevant record date to receive interest due on an interest payment date falling on or prior to the redemption date) with the net cash proceeds of an Equity Offering by Holdings; *provided that; provided that:*

(1) at least 65% of the aggregate principal amount of the Notes originally issued under this Indenture remains outstanding immediately after the occurrence of such redemption; and

(2) the redemption occurs within 90 days of the date of the closing of such Equity Offering.

(c) On or after the third anniversary of the Issue Date, the Company may redeem all or a part of the Notes upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below *plus* accrued and unpaid interest on the Notes redeemed to the applicable redemption date, if redeemed during the twelve-month periods indicated below, subject to the rights of Holders on the relevant record date to receive interest on the relevant interest payment date:

<u>Year</u>	<u>Percentage</u>
third to fourth anniversary of the Issue Date.....	104.75%
fourth to fifth anniversary of the Issue Date	103.17%
fifth to sixth anniversary of the Issue Date	102.375%
sixth anniversary of the Issue Date and thereafter	100%

(d) Any redemption pursuant to this Section 3.07 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof. Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

Section 3.08 *Mandatory Redemption.*

The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

Section 3.09 *Offer to Purchase by Application of Excess Proceeds.*

In the event that, pursuant to Section 4.10 hereof, the Company is required to commence an offer to all Holders to purchase Notes (an "*Asset Sale Offer*"), it will follow the procedures specified below.

The Asset Sale Offer shall be made to all Holders and all holders of other First Priority Indebtedness that is *pari passu* with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets. No earlier than 20 days and no later than 60 days from the date notice of the Asset Sale Offer is mailed (the "*Purchase Date*"), the Company will apply all Excess Proceeds (the "*Offer Amount*") to the purchase of Notes and such other *pari passu* First Lien Indebtedness (on a *pro rata* basis, if applicable) or, if less than the Offer Amount has been tendered, all Notes and other First Lien Indebtedness tendered in response to the Asset Sale Offer. Payment for any Notes so purchased will be made in the same manner as interest payments are made.

If the Purchase Date is on or after an interest record date and on or before the related interest payment date, any accrued and unpaid interest will be paid to the Person in whose name a Note is registered at the close of business on such record date, and no additional interest will be payable to Holders who tender Notes pursuant to the Asset Sale Offer unless the Company defaults in making such payment.

Upon the commencement of an Asset Sale Offer, the Company will send, by first class mail, a notice to the Trustee and each of the Holders, with a copy to the Trustee. The notice will contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The notice, which will govern the terms of the Asset Sale Offer, will state:

- (1) that the Asset Sale Offer is being made pursuant to this Section 3.09 and Section 4.10 hereof and the length of time the Asset Sale Offer will remain open;
- (2) the Offer Amount, the purchase price and the Purchase Date;
- (3) that any Note not tendered or accepted for payment will continue to accrue interest;
- (4) that, unless the Company defaults in making such payment, any Note accepted for payment pursuant to the Asset Sale Offer will cease to accrue interest after the Purchase Date;
- (5) that Holders electing to have Notes purchased pursuant to any Asset Sale Offer will be required to surrender the Note, or transfer by book-entry transfer, to the Company or a Paying Agent at the address specified in the notice at least three days before the Purchase Date;
- (6) that Holders will be entitled to withdraw their election if the Company or the Paying Agent, as the case may be, receives, not later than the expiration of the Asset Sale Offer, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the

principal amount of the Note the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Note purchased;

(7) that, if the aggregate principal amount of Notes and other *pari passu* First Lien Indebtedness surrendered by holders thereof exceeds the Offer Amount, the Company will select the Notes and other *pari passu* First Lien Indebtedness to be purchased on a *pro rata* basis based on the principal amount of Notes and such other *pari passu* First Lien Indebtedness surrendered; and

(8) that Holders whose Notes were purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer).

On or before the Purchase Date, the Company will, to the extent lawful, accept for payment, on a *pro rata* basis to the extent necessary, the Offer Amount of Notes or portions thereof tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes tendered, and will deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officers' Certificate stating that such Notes or portions thereof were accepted for payment by the Company in accordance with the terms of this Section 3.09. The Company or the Paying Agent, as the case may be, will promptly (but in any case not later than five days after the Purchase Date) mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes tendered by such Holder and accepted by the Company for purchase, and the Company will promptly issue a new Note, and the Trustee, upon written request from the Company, will certify and mail or deliver (or cause to be transferred by book entry) such new Note to such Holder, in a principal amount equal to any unpurchased portion of the Note surrendered. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company will publicly announce the results of the Asset Sale Offer on the Purchase Date.

Other than as specifically provided in this Section 3.09, any purchase pursuant to this Section 3.09 shall be made pursuant to the provisions of Sections 3.01 through 3.06 hereof.

The Company will comply with the requirements of any securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Section 3.09, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Section 3.09 by virtue of such compliance.

Section 3.10 *Redemption for Changes in Withholding Taxes.*

The Company may redeem all, but not less than all, of the Notes at any time, upon not less than 30 nor more than 60 days' notice, at 100% of the aggregate principal amount of the Notes, together with accrued and unpaid interest on the Notes redeemed to the redemption date, if the Company has become or would become obligated to pay, on the next date on which any amount would be payable with respect to the Notes, any Additional Amounts as a result of a change in the laws or treaties (including any regulations promulgated thereunder) of a Relevant Taxing Jurisdiction, or any change in any official position of any governmental agency, taxing authority or regulatory authority regarding the application or interpretation of such laws or regulations, which change is announced or becomes effective on or after the date of this Indenture (a "Change in Law").

ARTICLE 4 COVENANTS

Section 4.01 *Payment of Notes.*

The Company will pay or cause to be paid the principal of, premium, if any, and interest on, the Notes on the dates and in the manner provided in the Notes. Principal, premium, if any, and interest will be considered paid on the date due if the Paying Agent, if other than the Company or a Subsidiary thereof, holds as of 10:00 a.m. Eastern Time on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal, premium, if any, and interest then due. If the Trustee is the Paying Agent, the Company shall deliver such funds to the Trustee by 9:00 a.m. Eastern Time on such date.

Section 4.02 *Maintenance of Office or Agency.*

The Company will maintain in Toronto, an office or agency (which may be an office of the Trustee) where Notes may be surrendered for registration of transfer or for exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company fails to maintain any such required office or agency or fails to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company.

Section 4.03 *Reports.*

Holdings and the Company will furnish the following disclosure documents to the Holders and the Trustee (which furnishing may be done by posting such information on its website (which may be a secured area of the website accessible only to Holders and qualified prospective investors in the Notes)):

- (1) within 60 days after the end of each quarterly fiscal period in each fiscal year of Holdings (other than the last quarterly fiscal period of each such fiscal year) unaudited consolidated financial statements and a "Management's Discussion and Analysis of Financial Condition and Results of Operations" for such quarter;
- (2) within 90 days after the end of each fiscal year of Holdings audited consolidated financial statements and a "Management's Discussion and Analysis of Financial Condition and Results of Operations" for such fiscal year; and
- (3) within 10 days following an event that results in a Material Adverse Effect, a report with a description of such event.

In addition, within five days after delivery by Holdings and the Company of the documents set forth in clause (1) and (2) above, Holdings and the Company will hold an investor conference call to discuss such documents.

Section 4.04 *Compliance Certificate and Lease/License Certificate.*

(a) The Company and each Guarantor shall deliver to the Trustee, within 90 days after the end of each fiscal year, an Officers' Certificate stating that a review of the activities of the Company and its Restricted Subsidiaries during the preceding fiscal year has been made under the supervision of the signing Officers with a view to determining whether the Company and each Guarantor has kept, observed, performed and fulfilled its obligations under this Indenture, and further stating, as to each such Officer signing such certificate, that to the best of his or her knowledge the Company and each Guarantor has kept, observed, performed and fulfilled and complied with each and every covenant contained in this Indenture and is not in default in the performance or observance of any of the terms, provisions and conditions of this Indenture (or, if a Default or Event of Default has occurred, describing all such Defaults or Events of Default of which he or she may have knowledge and what action the Company is taking or proposes to take with respect thereto) and that to the best of his or her knowledge no event has occurred and remains in existence by reason of which payments on account of the principal of or interest, if any, on the Notes is prohibited or if such event has occurred, a description of the event and what action the Company is taking or proposes to take with respect thereto.

(b) So long as any of the Notes are outstanding, the Company will promptly deliver to the Trustee, forthwith upon any Officer becoming aware of any Default or Event of Default, an Officers' Certificate specifying such Default or Event of Default and what action the Company is taking or proposes to take with respect thereto.

(c) In relation to each fiscal year, the Company and each Guarantor shall deliver to the Collateral Agent, within 90 days after the end of each fiscal year, a Lease/License Certificate which shall be signed by a senior officer of the Company and each Guarantor and which shall set out in relation to each Lease and License entered into during such fiscal year, and in the case of the first such Lease/License Certificate, in relation to each Lease and License previously entered into by the Company and each Guarantor still then in force and effect:

(i) the name, address and telephone number of the landlord or licensor (as the case may be) under such Lease or License;

(ii) a confirmation as to whether the Company and each Guarantor has assigned all of its rights under such Lease or License (as the case may be) to the Collateral Agent by way of an assignment agreement in a form and substance reasonably satisfactory to the Collateral Agent;

(iii) a confirmation as to whether such Lease or License contains an acknowledgement from the landlord or the licensor (as the case may be) that none of the equipment of the Company and each Guarantor located on the premises to which such Lease or License relates is a fixture; and

(iv) a confirmation as to whether such Lease or License contains (A) any change of control provisions, (B) any provisions restricting the transfer of rights by the lessee or licensee or (C) any similar provisions.

(d) The Company and each Guarantor shall at all times use commercially reasonable efforts to ensure that:

(i) each Lease and License contains an acknowledgement from the landlord or the licensor (as the case may be) that none of the equipment of the Company and Guarantor located on the premises to which such Lease or License relates is a fixture; and

(ii) each Lease and License permits the Company and Guarantor to assign all of its rights under such Lease or License (as the case may be) to the Collateral Agent

(e) The Company and each Guarantor shall ensure that DAVE Leasing or any Unrestricted Subsidiary shall not be party to, be subject to or bound by any Lease or License at any time.

Section 4.05 *Taxes.*

The Company and each Guarantor shall pay and discharge all domestic and foreign federal, state, provincial, territorial municipal and local taxes, assessments and other governmental charges, duties, impositions and liabilities imposed by any Governmental Entity upon the Company and each Guarantor or its assets within the time period allowed without incurring penalties unless and to the extent that such payment is being contested in good faith.

Section 4.06 *Stay, Extension and Usury Laws.*

The Company and each of the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter in force, that may affect the covenants or the performance of this Indenture; and the Company and each of the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law has been enacted.

Section 4.07 *Restricted Payments.*

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly:

(1) declare or pay any dividend or make any other payment or distribution on account of the Company's or any of its Restricted Subsidiaries' Equity Interests (including, without limitation, any payment in connection with any merger, amalgamation or consolidation involving the Company or any of its Restricted Subsidiaries) or to the direct or indirect holders of the Company's or any of its Restricted Subsidiaries' Equity Interests in their capacity as such (other than dividends or distributions payable in Equity Interests (other than Disqualified Stock) of the Company and other than dividends or distributions payable to the Company or a Restricted Subsidiary of the Company);

(2) purchase, redeem or otherwise acquire or retire for value any Equity Interests of the Company or any of its Restricted Subsidiaries (other than any such Equity Interests owned by the Company or any Restricted Subsidiary of the Company);

(3) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Subordinated Indebtedness or Convertible Debentures, except (i) a payment of interest from amounts that were escrowed upon the issuance of Subordinated Convertible Debentures, and (ii) the incurrence by the Company or any of its

Restricted Subsidiaries of Convertible Debentures or New Convertible Debentures which have been issued in payment of accrued interest under the Convertible Debentures or New Convertible Debentures, respectively;

(4) make any payment on or with respect to, or purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Company or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee (excluding any intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries), except a payment of interest or principal at the Stated Maturity thereof; or

(5) make any Restricted Investment

all such payments and other actions set forth in clauses (1) through (5) above being collectively referred to as "*Restricted Payments*",

unless, at the time of and after giving effect to such Restricted Payment:

(1) no Default or Event of Default has occurred and is continuing or would occur as a consequence of such Restricted Payment;

(2) the Company or any of its Restricted Subsidiaries would, at the time of such Restricted Payment and after giving pro forma effect thereto as if such Restricted Payment had been made at the beginning of the applicable four-quarter period, have been permitted to incur at least \$1.00 of additional Indebtedness pursuant to the test set forth in clause (1) of Permitted Debt; and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries since the date of this Indenture (excluding Restricted Payments permitted by clauses (2), (3), (4), (6) and (7) of paragraph (b) of this Section 4.07), is less than the sum, without duplication of:

(A) the difference between (i) Consolidated EBITDA of Holdings for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing after the date of this Indenture to the end of Holdings most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment and (ii) 150% of the Consolidated Interest Expense of Holdings for the period (taken as one accounting period) from the beginning of the first fiscal quarter commencing after the date of this Indenture to the end of Holdings most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment; plus

(B) Total Incremental Equity; *plus*

(C) to the extent that any Restricted Investment that was made after the date of this Indenture is sold for cash or otherwise liquidated or repaid for cash, the lesser of (i) cash return of capital with respect to such Restricted Investment (less the cost of disposition, if any), and (ii) the original amount of the Restricted Investment; *plus*

(D) 50% of any dividends received by the Company or a Restricted Subsidiary of the Company after the date of this Indenture from an Unrestricted Subsidiary of the

Company, to the extent that such dividends were not otherwise included in the Consolidated Net Income of Holdings for such period; *plus*

(E) to the extent that any Unrestricted Subsidiary of the Company designated as such after the date of this Indenture is redesignated as a Restricted Subsidiary after the date of this Indenture, the lesser of (i) the Fair Market Value of the Company's Investment in such Subsidiary as of the date of such redesignation and (ii) the Fair Market Value of the Restricted Subsidiary on the date it was designated as an Unrestricted Subsidiary.

(b) So long as no Default has occurred and is continuing or would be caused thereby, the provisions of Section 4.07(a) hereof will not prohibit:

(1) the payment of any dividend or distribution or the consummation of any irrevocable redemption within 60 days after the date of declaration of the dividend, distribution or giving of the redemption notice, as the case may be, if at the date of declaration or notice, the dividend, distribution or redemption payment would have complied with the provisions of this Indenture;

(2) the making of any Restricted Payment in exchange for, or out of the net cash proceeds of the substantially concurrent sale (other than to a Subsidiary of Holdings) of Equity Interests of the Company or any of its Restricted Subsidiaries (other than Disqualified Stock) or from the substantially concurrent contribution of common equity capital to the Company or any of its Restricted Subsidiaries; *provided* that the amount of any such net cash proceeds that are utilized for any such Restricted Payment will be excluded from clause (3)(B) of Section 4.07(a) hereof;

(3) the repurchase, repayment, prepayment, redemption, defeasance or other acquisition or retirement for value of Indebtedness of the Company or any Guarantor that is contractually subordinated to the Notes or to any Note Guarantee with the net cash proceeds from a substantially concurrent incurrence of Permitted Refinancing Indebtedness;

(4) the payment of any dividend (or, in the case of any partnership or limited liability company, any similar distribution) by a Restricted Subsidiary of the Company (other than Holdings) to the holders of its Equity Interests on a *pro rata* basis;

(5) the repurchase, redemption or other acquisition or retirement for value of any Equity Interests of the Company or any Restricted Subsidiary of the Company held by any current or former officer, director or employee of the Company or any of its Restricted Subsidiaries pursuant to any equity subscription agreement, stock option agreement, shareholders' agreement or similar agreement; *provided* that the aggregate price paid for all such repurchased, redeemed, acquired or retired Equity Interests may not exceed \$2,500,000 in any twelve-month period;

(6) the repurchase of Equity Interests deemed to occur upon the exercise of stock options to the extent such Equity Interests represent a portion of the exercise price of those stock options;

(7) payments made to purchase, redeem, defease or otherwise acquire or retire for value any Indebtedness of the Company or a Guarantor that is contractually subordinated to the Notes or to any Guarantee, in each case, pursuant to provisions requiring such Person to offer to purchase, redeem, defease or otherwise acquire or retire for value such subordinated

Indebtedness upon the occurrence of a "change of control" or with the proceeds of "asset sales" as defined in the agreements or instruments governing such subordinated Indebtedness; *provided* however, that a Change of Control Offer or Asset Sale Offer, as applicable, has been made and the Company has purchased all Notes validly tendered in connection with that Change of Control Offer or Asset Sale Offer;

(8) payments or distributions to dissenting stockholders pursuant to applicable law pursuant to or in connection with a consolidation, merger or transfer of assets that complies with the provisions of this Indenture applicable to mergers, consolidations and transfers of all or substantially all of our property or assets; and

(9) other Restricted Payments in an aggregate amount not to exceed \$2.5 million since the date of this Indenture.

The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. The Fair Market Value of any assets or securities that are required to be valued by this Section 4.07 will be determined in good faith (a) in the case of assets or securities valued at \$10.0 million or less, by a senior financial officer of the Company set forth in a certificate to the Trustee from such officer, and (b) in the case of assets or securities valued at more than US \$10.0 million, by the Company's Board of Directors and set forth in an Officers' Certificate delivered to the Trustee. The Board of Directors' determination must be based upon an opinion or appraisal issued by an accounting, appraisal or investment banking firm of national standing if the Fair Market Value exceeds \$25.0 million.

Section 4.08 *Dividend and Other Payment Restrictions Affecting Subsidiaries.*

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(1) pay dividends or make any other distributions on its Capital Stock to the Company or any of its Restricted Subsidiaries or, with respect to any other interest or participation in, or measured by, its profits, or pay any indebtedness owed to the Company or any of its Restricted Subsidiaries;

(2) make loans or advances to the Company or any of its Restricted Subsidiaries; or

(3) sell, lease or transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries.

(b) However, the restrictions in Section 4.08(a) hereof will not apply to encumbrances or restrictions existing under or by reason of:

(1) agreements governing Existing Indebtedness as in effect on the date of this Indenture and any amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings of those agreements; *provided* that the amendments, restatements, modifications, renewals, supplements, refundings, replacements or refinancings are not materially more restrictive, taken as a whole, with respect to such dividend and other payment restrictions than those contained in those agreements on the date of this Indenture;

- (2) this Indenture, the Notes, the Note Guarantees and the Collateral Documents;
- (3) applicable law, rule, regulation or order;
- (4) any agreement or instrument governing Indebtedness or Capital Stock of a Person acquired by, or merged, consolidated or otherwise combined with or into, the Company or any of its Restricted Subsidiaries as in effect at the time of such acquisition, merger, consolidation or other combination (except to the extent such Indebtedness or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired; *provided* that, in the case of Indebtedness, such Indebtedness was permitted by the terms of this Indenture to be incurred;
- (5) customary non-assignment provisions in leases, contracts and licenses or related documents entered into in the ordinary course of business;
- (6) purchase money obligations for property acquired in the ordinary course of business and Capital Lease Obligations that impose restrictions on the property purchased or leased of the nature described in clause (3) of Section 4.08(a) hereof;
- (7) any agreement for the sale or other disposition of a Restricted Subsidiary that restricts distributions by that Restricted Subsidiary pending the sale or other disposition;
- (8) Permitted Refinancing Indebtedness; *provided* that the restrictions contained in the agreements governing such Permitted Refinancing Indebtedness are not materially more restrictive, taken as a whole, than those contained in the agreements governing the Indebtedness being refinanced;
- (9) Liens permitted to be incurred under the provisions of Section 4.12 hereof that limit the right of the debtor to dispose of the assets subject to such Liens;
- (10) provisions limiting the disposition or distribution of assets or property in joint venture agreements, asset sale agreements, sale-leaseback agreements, stock sale agreements and other similar agreements entered into with the approval of the Company's Board of Directors, which limitation is applicable only to the assets that are the subject of such agreements; and
- (11) restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business.

Section 4.09 *Incurrence of Indebtedness.*

- (a) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise, with respect to (collectively, "*incur*") any Indebtedness (including Acquired Debt), and the Company and its Restricted Subsidiaries will not issue any Disqualified Stock.
- (b) The provisions of Section 4.09(a) hereof will not prohibit the incurrence of any of the following items of Indebtedness (collectively, "*Permitted Debt*"):
 - (1) the incurrence by the Company or any Guarantor of additional Indebtedness provided that:

- a. the aggregate principal amount of Indebtedness incurred under this clause (1); *plus*
- b. Consolidated Indebtedness; *minus*
- c. Convertible Debentures that are Subordinated Indebtedness; *minus*
- d. New Convertible Debentures; *minus*
- e. Subordinated Convertible Debentures;

may not exceed the greater of \$350 million and 4.5 times Holdings' Consolidated EBITDA for the four most recently completed fiscal quarters at any one time outstanding;

(2) the incurrence by the Company and its Restricted Subsidiaries of the Existing Indebtedness;

(3) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness represented by Capital Lease Obligations, mortgage financings or purchase money obligations, in each case, incurred for the purpose of financing all or any part of the purchase price or cost of design, construction, installation or improvement of property, plant or equipment used in the business of the Company or any of its Restricted Subsidiaries, in an aggregate principal amount, including all Permitted Refinancing Indebtedness incurred to renew, refund, refinance, replace, defease or discharge any Indebtedness incurred pursuant to this clause (3), not to exceed \$10.0 million at any one time outstanding;

(4) the incurrence by the Company or any of its Restricted Subsidiaries of Permitted Refinancing Indebtedness in exchange for, or the net proceeds of which are used to renew, refund, refinance, replace, defease or discharge any Indebtedness (other than intercompany Indebtedness) that was permitted by this Indenture to be incurred under clauses (1), (2), (3), (10), (11), (12), (15), (16) or (17) of this paragraph;

(5) the incurrence by the Company or any of its Restricted Subsidiaries of intercompany Indebtedness between or among the Company and any of its Restricted Subsidiaries; *provided, however*, that:

(a) if the Company or any Guarantor is the obligor on such Indebtedness and the payee is not the Company or a Guarantor, such Indebtedness must be expressly subordinated to the prior payment in full in cash of all Obligations then due with respect to the Notes, in the case of the Company, or the Note Guarantee, in the case of a Guarantor; and

(b) (i) any subsequent issuance or transfer of Equity Interests that results in any such Indebtedness being held by a Person other than the Company or a Restricted Subsidiary of the Company and (ii) any sale or other transfer of any such Indebtedness to a Person that is not either the Company or a Restricted Subsidiary of the Company, will be deemed, in each case, to constitute an incurrence of such Indebtedness by the Company or such Restricted Subsidiary, as the case may be, that was not permitted by this clause (5);

(6) the incurrence by the Company or any of its Restricted Subsidiaries of Hedging Obligations in the ordinary course of business and not for speculative purposes;

- (7) the guarantee by the Company or any of the Guarantors of Indebtedness of the Company or a Restricted Subsidiary of the Company that was permitted to be incurred by another provision of this covenant; *provided* that if the Indebtedness being guaranteed is subordinated to or *pari passu* with the Notes, then the guarantee shall be subordinated or *pari passu*, as applicable, to the same extent as the Indebtedness guaranteed;
- (8) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness in respect of workers' compensation claims, self-insurance obligations, bankers' acceptances, performance or surety bonds or other reimbursement obligations in the ordinary course of business;
- (9) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds, so long as such Indebtedness is covered within five Business Days;
- (10) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness to the extent the net proceeds thereof are promptly deposited to defease all outstanding Notes as described in Article 8 hereof;
- (11) the incurrence by the Company or any of its Restricted Subsidiaries of First Priority Indebtedness provided that following such incurrence, the aggregate principal amount of First Priority Indebtedness does not exceed the greater of (a) \$200 million and (b) three times Holdings' Consolidated EBITDA for the four most recently completed fiscal quarters at any one time outstanding and provided further that such Indebtedness could have been incurred under clause (1) of this paragraph;
- (12) the incurrence by the Company or any of its Restricted Subsidiaries of Subordinated Debentures which have been issued in payment of accrued interest under the Subordinated Debentures;
- (13) the incurrence by the Company or any of its Restricted Subsidiaries of Subordinated Convertible Debentures in an aggregate principal amount not to exceed \$100 million at any one time outstanding;
- (14) the issuance by the Company or any of its Restricted Subsidiaries of shares of preferred stock;
- (15) the incurrence by the Company or any of its Restricted Subsidiaries of Convertible Debentures which have been issued in payment of accrued interest under the Convertible Debentures;
- (16) the incurrence by the Company or any of its Restricted Subsidiaries of the New Convertible Debentures;
- (17) incurrence by the Company and the Guarantors of Indebtedness represented by the notes and the related Note Guarantees to be issued on the date of this Indenture; and
- (18) the incurrence by the Company or any of its Restricted Subsidiaries of any indebtedness described in clause (c) of the definition of Indebtedness, provided that such

indebtedness does not exceed \$10 million outstanding at any one time and is not secured by any Lien.

The Company will not incur, and will not permit any Guarantor to incur, any Indebtedness (including Permitted Debt) that is contractually subordinated in right of payment to any other Indebtedness of the Company or such Guarantor unless such Indebtedness is also contractually subordinated in right of payment to the Notes and the applicable Note Guarantee on substantially identical terms; *provided, however*, that no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of the Company solely by virtue of being unsecured or by virtue of being secured on a first or junior Lien basis.

For purposes of determining compliance with this Section 4.09, in the event that an item of proposed Indebtedness meets the criteria of more than one of the categories of Permitted Debt described in clauses (1) through (18) above or is entitled to be incurred pursuant to Section 4.09(a) hereof, the Company will be permitted to classify such item of Indebtedness on the date of its incurrence, or later reclassify all or a portion of such item of Indebtedness, in any manner that complies with this Section 4.09, including by allocation to more than one other type of Indebtedness. The outstanding principal amount of any particular Indebtedness shall be counted only once and any obligations arising under any Guarantee, Lien, letter of credit or similar instrument supporting such Indebtedness shall not be double counted. Notwithstanding any other provision of this Section 4.09, the maximum amount of Indebtedness that the Company or any Restricted Subsidiary may incur pursuant to this Section 4.09 shall not be deemed to be exceeded solely as a result of fluctuations in exchange rates or currency values.

Section 4.10 *Asset Sales.*

The Company will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(1) the Company (or the Restricted Subsidiary, as the case may be) receives consideration at the time of the Asset Sale at least equal to the Fair Market Value of the assets or Equity Interests issued or sold or otherwise disposed of; and

(2) at least 75% of the consideration received in the Asset Sale by the Company or such Restricted Subsidiary is in the form of cash or Cash Equivalents. For purposes of this provision, each of the following will be deemed to be cash:

(A) any liabilities, as shown on the Company's most recent consolidated balance sheet, of the Company or any Restricted Subsidiary (other than contingent liabilities and liabilities that are by their terms subordinated to the Notes or any Note Guarantee) that are assumed by the transferee of any such assets pursuant to a customary novation agreement that releases the Company or such Restricted Subsidiary from further liability;

(B) any securities, Notes or other obligations received by the Company or any such Restricted Subsidiary from such transferee that are within 60 days converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents, to the extent of the cash or Cash Equivalents received in that conversion; and

(C) any stock or assets of the kind referred to in clauses (1) or (3) of the next paragraph of this Section 4.10.

Within 360 days after the receipt of any Net Proceeds from an Asset Sale, the Company (or the applicable Restricted Subsidiary, as the case may be):

(x) may apply such Net Proceeds at its option:

(1) to acquire all or substantially all of the assets of, or any Capital Stock of, another Permitted Business, if, after giving effect to any such acquisition of Capital Stock, the Permitted Business is or becomes a Restricted Subsidiary of the Company;

(2) to make a capital expenditure that is used in a Permitted Business; or

(3) to acquire other assets that are not classified as current assets under GAAP and that are used or useful in a Permitted Business.

(y) to repay the Notes; or

(z) enter into a legally binding agreement to apply such Net Proceeds as described in the preceding clause (x) within six months after such agreement is entered into and apply such Net Proceeds in accordance with the terms of such agreement or the provisions of clause (x) above; provided that if such agreement terminates the Company shall have until the later of (i) 90 days after the date of such termination and (ii) 360 days after the receipt of any Net Proceeds from the Asset Sale to effect such an application.

Pending the final application of any Net Proceeds, the Company or any Restricted Subsidiary may invest the Net Proceeds in any manner that is not prohibited by this Indenture.

Any Net Proceeds from Asset Sales of Collateral that have not been applied in the preceding paragraph of this Section 4.10 since the Issue Date that exceeds \$5.0 million will constitute "*Excess Proceeds*." When there are Excess Proceeds, within five days thereof, the Company will make an Asset Sale Offer to all Holders of Notes and all holders of other First Priority Indebtedness that is *pari passu* with the Notes containing provisions similar to those set forth in this Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets in accordance with Section 3.09 hereof to purchase the maximum principal amount of Notes and such other *pari passu* First Priority Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 101% of the principal amount plus accrued and unpaid interest to the date of purchase, and will be payable in cash. The date of purchase will be no earlier than 20 days and no later than 60 days from the date notice of the Asset Sale Offer is mailed. If any Excess Proceeds remain after consummation of an Asset Sale Offer, the Company or any Restricted Subsidiary may use those Excess Proceeds for any purpose not otherwise prohibited by this Indenture. If the aggregate principal amount of Notes and other *pari passu* First Priority Indebtedness tendered into such Asset Sale Offer exceeds the amount of Excess Proceeds, the Trustee will select the Notes and such other *pari passu* First Priority Indebtedness to be purchased on a *pro rata* basis. Upon completion of each Asset Sale Offer, the amount of Excess Proceeds will be reset at zero.

The Company will comply with the requirements of any securities laws and regulations thereunder to the extent such laws and regulations are applicable in connection with each repurchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of Section 3.09 hereof or this Section 4.10, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under Section 3.09 hereof or this Section 4.10 by virtue of such compliance.

Section 4.11 *Transactions with Affiliates.*

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each an "Affiliate Transaction"), unless:

(1) the Affiliate Transaction is on terms that are no less favorable to the Company or the relevant Restricted Subsidiary than those that would have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person; and

(2) the Company delivers to the Trustee:

(A) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$5.0 million, a resolution of the Board of Directors of the Company set forth in an Officers' Certificate certifying that such Affiliate Transaction complies with clause (1) of this Section 4.11(a) and, if an opinion meeting the requirements set forth in clause (b) below has not been obtained, that such Affiliate Transaction has been approved by a majority of the members of the Board of Directors of the Company who have no direct financial interest in such Affiliate Transaction (other than as a stockholder of Holdings);

(B) with respect to (x) any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$10.0 million, (y) an Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of \$5.0 million where none of the members of the Company's Board of Directors qualify as having no direct financial interest in such Affiliate Transaction (other than as a stockholder of Holdings), an opinion as to the fairness to the Company or such Restricted Subsidiary of such Affiliate Transaction from a financial point of view issued by an accounting, appraisal or investment banking firm of national standing in the United States or Canada.

(b) The following items will not be deemed to be Affiliate Transactions and, therefore, will not be subject to the provisions of Section 4.11(a) hereof:

(1) any transaction by the Company or any Restricted Subsidiary with an Affiliate related to the purchase, sale or distribution of products in the ordinary course of business, which as been approved by a majority of the members of the Board of Directors who are disinterested with respect to such transaction;

(2) any employment agreement, employee benefit plan, officer or director indemnification agreement or any similar arrangement entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business and payments pursuant thereto;

(3) transactions between or among the Company and/or its Restricted Subsidiaries;

(4) transactions with a Person (other than an Unrestricted Subsidiary of the Company) that is an Affiliate of the Company solely because the Company owns, directly or through a Restricted Subsidiary, an Equity Interest in, or controls, such Person;

(5) payment of reasonable compensation or fees to directors or officers of Holdings and its Subsidiaries;

(6) any sale or issuance of Equity Interests (other than Disqualified Stock) of Holdings to Affiliates of Holdings;

(7) Restricted Payments that do not violate Section 4.07 hereof;

(8) a management fee in lieu of the payment or reimbursement of travel and administrative expenses or other costs to each of DAVE Investments, Quadrangle Capital Partners II LLP and other shareholders of Holdings which, when aggregated, do not exceed \$750,000 in any fiscal year of Holdings; and

(9) transactions or agreements in existence on the date of this Indenture, including the Quadrangle Facility and any transactions or agreements among Holdings and the Company, on the one hand, and Dave Leasing, on the other hand (and extensions or amendments thereof on terms which are not materially less favorable to the Company and/or those Restricted Subsidiaries that are party thereto than the terms of any such transaction or agreement as in existence on the Issue Date).

Section 4.12 *Liens.*

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly create, incur, assume or suffer to exist any Lien (other than Permitted Liens) of any kind on any Collateral now owned or hereafter acquired.

Section 4.13 *Business Activities.*

The Company will not, and will not permit any of its Restricted Subsidiaries to, engage in any business other than Permitted Businesses, except to such extent as would not be material to the Company and its Restricted Subsidiaries taken as a whole.

Section 4.14 *Corporate Existence.*

Subject to Article 5 hereof, the Company and its Restricted Subsidiaries shall do or cause to be done all things necessary to preserve and keep in full force and effect:

(1) each of their corporate, partnership or other existence, as the case may be, in accordance with the respective organizational documents (as the same may be amended from time to time) of such Person; and

(2) the rights (charter and statutory), licenses and franchises of the Company and its Restricted Subsidiaries; *provided, however*, that the Company and its Restricted Subsidiaries shall not be required to preserve any such right, license or franchise, or the corporate, partnership or other existence, if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Restricted Subsidiaries, taken as a whole, and that the loss thereof is not adverse in any material respect to the Holders of the Notes.

Section 4.15 *Offer to Repurchase Upon Change of Control.*

(a) Upon the occurrence of a Change of Control, the Company will make an offer (a "Change of Control Offer") to each Holder to repurchase all or any part of that Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount of Notes repurchased plus accrued and unpaid interest on the Notes repurchased to the date of purchase, subject to the rights of Holders on the relevant record date to receive interest due on the relevant interest payment date the ("Change of Control Payment"). Within 30 days following any Change of Control, the Company will mail a notice to each Holder describing the transaction or transactions that constitute the Change of Control and stating:

(1) that the Change of Control Offer is being made pursuant to this Section 4.15 and that all Notes tendered will be accepted for payment;

(2) the purchase price and the purchase date, which shall be no earlier than 10 days and no later than 60 days from the date such notice is mailed (the "Change of Control Payment Date");

(3) that any Note not tendered will continue to accrue interest;

(4) that, unless the Company defaults in the payment of the Change of Control Payment, all Notes accepted for payment pursuant to the Change of Control Offer will cease to accrue interest after the Change of Control Payment Date;

(5) that Holders electing to have any Notes purchased pursuant to a Change of Control Offer will be required to surrender the Notes or transfer by book-entry transfer, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that Holders will be entitled to withdraw their election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a telegram, telex, facsimile transmission or letter setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing his election to have the Notes purchased; and

(7) that Holders whose Notes are being purchased only in part will be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered, which unpurchased portion must be equal to \$1,000 in principal amount or an integral multiple thereof.

The Company will comply with the requirements of any securities laws and regulations thereunder to the extent those laws and regulations are applicable in connection with the repurchase of the Notes as a result of a Change in Control. To the extent that the provisions of any securities laws or regulations conflict with the provisions of Section 3.02 or 4.15 hereof, the Company will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under Sections 3.02 or 4.15 by virtue of such compliance.

(b) On the Change of Control Payment Date, the Company will, to the extent lawful:

(1) accept for payment all Notes or portions of Notes properly tendered pursuant to the Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions of Notes properly tendered; and

(3) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officers' Certificate stating the aggregate principal amount of Notes or portions of Notes being purchased by the Company.

The Paying Agent will promptly mail (but in any case not later than five days after the Change of Control Payment Date) to each Holder of Notes properly tendered the Change of Control Payment for such Notes, and the Trustee will promptly certify and mail (or cause to be transferred by book entry) to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any. The Company will publicly announce the results of the Change of Control Offer on or as soon as practicable after the Change of Control Payment Date.

(c) Notwithstanding anything to the contrary in this Section 4.15, the Company will not be required to make a Change of Control Offer upon a Change of Control if (1) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Section 4.15 hereof and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, or (2) notice of redemption has been given pursuant to Section 3.07 hereof, unless and until there is a default in payment of the applicable redemption price.

Section 4.16 *Limitation on Sale and Leaseback Transactions.*

The Company will not, and will not permit any of its Restricted Subsidiaries to, enter into any sale and leaseback transaction; *provided* that the Company and any Guarantor may enter into a sale and leaseback transaction if:

(1) the Company or that Guarantor, as applicable, could have (a) incurred Indebtedness in an amount equal to the Attributable Debt relating to such sale and leaseback transaction under the test in clause (1) of Permitted Debt and (b) incurred a Lien to secure such Indebtedness pursuant to the provisions of Section 4.12 hereof; and

(2) the transfer of assets in that sale and leaseback transaction is permitted by, and the Company applies the proceeds of such transaction in compliance with, Section 4.10 hereof.

Section 4.17 *Payments for Consent.*

The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, pay or cause to be paid any consideration to or for the benefit of any Holder of Notes for or as an inducement to any consent, waiver or amendment of any of the terms or provisions of this Indenture or the Notes unless such consideration is offered to be paid and is paid to all Holders of the Notes that consent, waive or agree to amend in the time frame set forth in the solicitation documents relating to such consent, waiver or agreement.

Section 4.18 *Future Guarantors.*

The Company will cause each Person becoming a Restricted Subsidiary following the Issue Date to execute and deliver to the trustee within 60 days of becoming a Restricted Subsidiary a joinder pursuant to which such Guarantor will unconditionally guarantee, on a joint and several basis, the full and prompt payment of the principal, premium, and, if any, interest on the Notes on a senior basis; *provided* that any Restricted Subsidiary that constitutes an Immaterial Subsidiary need not become a Guarantor

until such time as it ceases to be an Immaterial Subsidiary. Each Restricted Subsidiary that becomes a Guarantor after the date of issuance of the Notes will also become a party to the Collateral Documents and will take such actions as are reasonably necessary or advisable to grant the Collateral Agent for the benefit of the holders of the Notes and, the Trustee, a perfected Lien on any Collateral held by such Restricted Subsidiary, subject to Permitted Liens including the entering into of a general security agreement. The form of such joinder is attached as Exhibit B hereto.

Section 4.19 *Designation of Restricted and Unrestricted Subsidiaries.*

The Board of Directors of the Company may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary designated as Unrestricted will be deemed to be an Investment made as of the time of the designation and will reduce the amount available for Restricted Payments under Section 4.07 hereof or under one or more clauses of the definition of Permitted Investments, as determined by the Company. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. The Board of Directors of the Company may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary if that redesignation would not cause a Default.

Any designation of a Subsidiary of Holdings or the Company as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a certified copy of a resolution of the Board of Directors giving effect to such designation and an Officers' Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 4.07 hereof. If, at any time, any Unrestricted Subsidiary would fail to meet the preceding requirements as an Unrestricted Subsidiary, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 4.09 hereof, the Company will be in default of such covenant. The Board of Directors of the Company may at any time designate any Unrestricted Subsidiary to be a Restricted Subsidiary of the Company; *provided* that such designation will be deemed to be an incurrence of Indebtedness by a Restricted Subsidiary of the Company of any outstanding Indebtedness of such Unrestricted Subsidiary and such designation will only be permitted if (1) such Indebtedness is permitted under clause (1) of Permitted Debt, calculated on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period; and (2) no Default or Event of Default would be in existence following such designation.

Section 4.20 *Payment of Additional Amounts*

(a) All amounts paid or credited by the Company under or with respect to the Notes, or by any Guarantor pursuant to the Guarantees, will be made free and clear of and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charge (including penalties, interest and other liabilities or expenses related thereto) (hereinafter, "*Taxes*") imposed or levied by or on behalf of the Government of Canada or the United States or of any province, territory, state or other political subdivision thereof or by any authority or agency therein or thereof having power to tax (each, a "*Relevant Taxing Jurisdiction*"), unless the Company or such Guarantor, as the case may be, is required to withhold or deduct any amount for or on account of Taxes by law or by the interpretation or administration thereof. If the Company or any Guarantor is required to withhold or deduct any amount for or on account of any such Taxes from any amount paid or credited under or with respect to the Notes or the Guarantees, the Company or such Guarantor will pay such additional amounts (the "*Additional Amounts*") as may be necessary so that the

net amount received by each owner of a beneficial interest in the Notes (an "owner" for the purposes of this Section 4.20) (including Additional Amounts) after such withholding or deduction (including any withholding or deduction in respect of Additional Amounts) will not be less than the amount such owner would have received if such Taxes had not been withheld or deducted; *provided, however*, that Additional Amounts will not be payable to an owner or Holder of Notes with respect to any Taxes to the extent such Taxes ("Excluded Taxes") would not have been imposed but for such owner or Holder being an owner or Holder:

- (1) in the case of Canadian Taxes, with which the Company or such Guarantor does not deal at arm's length (within the meaning of the Income Tax Act (Canada)) at the time of making a payment, unless the owner or Holder is a resident of the United States and is entitled to the benefit of the Canada - United States Tax Convention;
 - (2) which is subject to such Taxes by reason of such owner or Holder being connected with the Relevant Taxing Jurisdiction other than solely by reason of the mere acquisition or holding of Notes, the receipt of payments thereunder or the enforcement of the Holder's or owner's rights thereunder;
 - (3) which failed to duly and timely comply with a timely and reasonable request of the Company to provide information, documents, certification or other evidence concerning such owner's or Holder's nationality, residence, entitlement to treaty benefits, identity or connection with a Relevant Taxing Authority, but only if such owner or Holder is legally entitled to comply with such request and only to the extent that due and timely compliance with such request would have resulted in the reduction or elimination of the Taxes in question; or
 - (4) which is a fiduciary, a partnership or other Holder that is not the beneficial owner of a note, if and to the extent that any beneficiary or settlor of such fiduciary, any partner in such partnership or the beneficial owner of such note (as the case may be) would not have been entitled to receive Additional Amounts with respect to the payment in question if such beneficiary, settlor, partner or beneficial owner had been the Holder of such Note (but only if there is no material cost or expense associated with transferring such note to such beneficiary, settlor, partner or beneficial owner and no restriction on such transfer that is outside the control of such beneficiary, settlor, partner or beneficial owner).
- (b) The Company or such Guarantor will also (a) make such withholding or deduction and (b) remit the full amount deducted or withheld to the relevant authority in accordance with and in the time required under applicable law.
- (c) The Company or the Guarantor will furnish the Holders of the Notes, within 30 days after the date the payment of any Taxes is due pursuant to applicable law, evidence of such payment by the Company or such Guarantor. The Company and the Guarantors will indemnify and hold harmless each Holder and owner from and against (x) any Taxes (other than Excluded Taxes) levied or imposed on such Holder or owner as a result of payments or credits made under or with respect to the Notes or the Guarantees, and (y) any Taxes (other than Excluded Taxes) so levied or imposed with respect to any indemnification payments under the foregoing clause (x) or this clause (y) such that the net amount received by such Holder or owner after such indemnification payments will not be less than the net amount the Holder or owner would have received if the Taxes described in clauses (x) and (y) above had not been imposed.
- (d) At least 30 days prior to each date on which any payment under or with respect to the Notes is due and payable, if the Company or any Guarantor will be obligated to pay Additional Amounts

with respect to such payment, the Company or such Guarantor will deliver to the Trustee an Officer's Certificate stating the fact that such Additional Amounts will be payable and the amounts so payable and will set forth such other information necessary to enable the Trustee to pay such Additional Amounts to Holders or owners on the payment date. Whenever in this Indenture there is mentioned, in any context, the payment of principal, premium, if any, redemption price, Change of Control Payment, Asset Sale Offer purchase price, interest or any other amount payable under or with respect to any note, such mention shall be deemed to include mention of the payment of Additional Amounts or indemnification payments to the extent that, in such context, Additional Amounts or indemnification payments are, were or would be payable in respect thereof.

(e) The Company and the Guarantors will pay any present or future stamp, court, documentary or other excise or property Taxes, charges or similar levies that arise in any Relevant Taxing Jurisdiction from the execution, delivery or registration of, or enforcement of rights under, the Notes, this Indenture, any Guarantee or any related document ("*Documentary Taxes*").

(f) The obligation to pay any Additional Amounts (and any associated indemnification payments) and Documentary Taxes under the terms and conditions described in this Section 4.20 will survive any termination, defeasance or discharge of this Indenture.

Section 4.21 *Keeping of Books*

The Company and its Restricted Subsidiaries will keep or cause to be kept proper books of record and account, in accordance with GAAP .

Section 4.22 *To Pay Trustee's Remuneration*

The Company will pay the Trustee's reasonable remuneration for its services as Trustee hereunder.

Section 4.23 *To Maintain Insurance*

The Company and each Restricted Subsidiary shall ensure that it will maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business. All insurances must be with reputable independent insurance companies or underwriters.

Section 4.24 *Performance of Covenants by Trustee*

If the Company or any of its Restricted Subsidiaries shall fail to perform any of its covenants contained in this Indenture, the Trustee may notify the Holders of such failure on the part of the Company or may itself perform any of the covenants capable of being performed by it, but shall be under no obligation to do so or to notify the Holders. All sums so expended or advanced by the Trustee shall be repayable as provided in this Indenture. No such performance, expenditure or advance by the Trustee shall be deemed to relieve the Company of any default hereunder.

ARTICLE 5 SUCCESSORS

Section 5.01 *Merger, Consolidation, or Sale of Assets.*

Holdings and the Company shall not, directly or indirectly: (i) consolidate, amalgamate or merge with or into another Person (whether or not Holdings or the Company is the surviving corporation); or (2)

sell, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of Holdings and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to another Person, unless:

(1) either:

(A) Holdings or the Company is the surviving corporation; or

(B) the Person formed by or surviving any such consolidation or merger (if other than Holdings or the Company) or to which such sale, assignment, transfer, conveyance or other disposition has been made is a corporation organized or existing under the laws of Canada, the United States, any province, territory or any state thereof or the District of Columbia;

(2) the Person formed by or surviving any such consolidation, amalgamation or merger (if other than Holdings or the Company) or the Person to which such sale, assignment, transfer, conveyance or other disposition has been made assumes all the obligations of Holdings or the Company, as the case may be, under the Notes, this Indenture and the Collateral Documents;

(3) immediately after such transaction, no Default or Event of Default exists;

(4) Holdings, the Company or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than Holdings or the Company), or to which such sale, assignment, transfer, conveyance or other disposition has been made would, on the date of such transaction after giving pro forma effect thereto and any related financing transactions as if the same had occurred at the beginning of the applicable four-quarter period be permitted to incur at least \$1.00 of additional Indebtedness pursuant to the test set forth in clause (1) of Permitted Debt;

(5) each surviving Guarantor shall have by supplemental indenture and Collateral Documents confirmed that its Note Guarantee shall apply to Holdings, the Company or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than Holdings or the Company) and its obligations under the Collateral Documents shall remain in full force and effect; and

(6) Holdings or the Company, as the case may be, shall have delivered to the Trustee an Officers Certificate and Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indenture and Collateral Documents (if any) comply with this Indenture and Collateral Documents.

In addition, the Company will not, directly or indirectly, lease all or substantially all of the properties and assets of it and its Restricted Subsidiaries taken as a whole, in one or more related transactions, to any other Person.

This Section 5.01 will not apply to:

(1) a merger of Holdings or the Company with an Affiliate solely for the purpose of reincorporating Holdings or the Company in another jurisdiction that is in Canada or the United States; or

(2) any consolidation, amalgamation or merger, or any sale, assignment, transfer, conveyance, lease or other disposition of assets between or among the Company or Holdings and its Restricted Subsidiaries.

Section 5.02 *Successor Corporation Substituted.*

Upon any consolidation or merger, or any sale, assignment, transfer, lease, conveyance or other disposition of all or substantially all of the properties or assets of Holdings or the Company in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof, the successor Person formed by such consolidation or into or with which Holdings or the Company is merged or to which such sale, assignment, transfer, lease, conveyance or other disposition is made shall succeed to, and be substituted for (so that from and after the date of such consolidation, merger, sale, assignment, transfer, lease, conveyance or other disposition, the provisions of this Indenture referring to "Holdings" or the "Company" shall refer instead to the successor Person and not to Holdings or the Company), and may exercise every right and power of Holdings or the Company under this Indenture with the same effect as if such successor Person had been named as Holdings or the Company herein; *provided, however*, that the predecessor Holdings or the Company shall not be relieved from the obligation to pay the principal of and interest on the Notes except in the case of a sale of all of Holdings or the Company's assets in a transaction that is subject to, and that complies with the provisions of, Section 5.01 hereof.

ARTICLE 6
DEFAULTS AND REMEDIES

Section 6.01 *Events of Default.*

Each of the following is an "Event of Default":

- (1) default for 30 days in the payment when due of interest on the Notes;
- (2) default in the payment when due (at maturity, upon redemption, upon repurchase as required by this Indenture or otherwise) of the principal of, or premium, if any, on, the Notes;
- (3) failure by the Company or any of its Restricted Subsidiaries to comply with the provisions of Sections 4.10, 4.15, 4.20 or 5.01 hereof;
- (4) failure by the Company or any of its Restricted Subsidiaries for 60 days after notice to the Company by the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding voting as a single class to comply with any of the other agreements in this Indenture or the Collateral Documents;
- (5) default under any mortgage, indenture or instrument under which there may be issued or by which there may be secured or evidenced any Indebtedness for money borrowed by the Company or any of its Restricted Subsidiaries (or the payment of which is guaranteed by the Company or any of its Restricted Subsidiaries), whether such Indebtedness or Guarantee now exists, or is created after the date of this Indenture, if that default:
 - (A) is caused by a failure to pay principal of, or interest or premium, if any, on, such Indebtedness prior to the expiration of the grace period provided in such Indebtedness on the date of such default (a "Payment Default"); or

(B) results in the acceleration of such Indebtedness prior to its express maturity,

and, in each case, the principal amount of any such Indebtedness, together with the principal amount of any other such Indebtedness under which there has been a Payment Default or the maturity of which has been so accelerated, aggregates \$7.5 million or more;

(6) failure by the Company or any of its Restricted Subsidiaries to pay final non-appealable judgments for the payment of money entered by a court or courts of competent jurisdiction aggregating in excess of \$7.5 million, which judgments are not paid, discharged or stayed for a period of 60 days;

(7) the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary pursuant to or within the meaning of Bankruptcy Law:

(A) commences a voluntary case,

(B) consents to the entry of an order for relief against it in an involuntary case,

(C) consents to the appointment of a custodian of it or for all or substantially all of its property,

(D) makes a general assignment for the benefit of its creditors, or

(E) generally is not paying its debts as they become due;

(8) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(A) is for relief against the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary in an involuntary case;

(B) appoints a custodian of the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary; or

(C) orders the liquidation of the Company or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days;

(9) any Collateral Document ceases to be in full force and effect (except as permitted by the terms of this Indenture or Collateral Documents or other than as a result of the

action or inaction of the Collateral Agent) for a period of 30 consecutive days after the Company receives notice thereof;

(10) except as permitted by this Indenture, any Note Guarantee is held in any judicial proceeding to be unenforceable or invalid or ceases for any reason to be in full force and effect, or any Guarantor, or any Person acting on behalf of any Guarantor, denies or disaffirms its obligations under its Note Guarantee; and

(11) any Collateral Document is declared null and void in a judicial proceeding or the Company or any Guarantor denies or disaffirms its obligations under any Collateral Document.

Section 6.02 *Acceleration.*

In the case of an Event of Default specified in clause (7) or (8) of Section 6.01 hereof, with respect to the Company, any Restricted Subsidiary of the Company that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Company that, taken together, would constitute a Significant Subsidiary, all outstanding Notes will become due and payable immediately without further action or notice. If any other Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes may declare all the Notes to be due and payable immediately.

Upon any such declaration, the Notes shall become due and payable immediately.

The Holders of a majority in aggregate principal amount of the then outstanding Notes by written notice to the Trustee may, on behalf of all of the Holders, rescind an acceleration and its consequences, if the rescission would not conflict with any judgment or decree and if all existing Events of Default (except nonpayment of principal or interest that has become due solely because of the acceleration) have been cured or waived.

If an Event of Default occurs by reason of any willful action (or inaction) taken (or not taken) by or on behalf of the Company with the intention of avoiding payment of the premium that the Company would have had to pay if the Company then had elected to redeem the Notes pursuant to Section 3.07 hereof, then, upon acceleration of the Notes, an equivalent premium shall also become and be immediately due and payable, to the extent permitted by law, anything in this Indenture or in the Notes to the contrary notwithstanding.

Section 6.03 *Other Remedies.*

If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal, premium and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture, including enforcing all Liens on the Collateral created by the Collateral Documents.

The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder of a Note in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

Section 6.04 *Waiver of Past Defaults.*

Holders of not less than a majority in aggregate principal amount of the then outstanding Notes by notice to the Trustee may on behalf of the Holders of all of the Notes waive an existing Default or Event of Default and its consequences hereunder, except a continuing Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes (including in connection with an offer to purchase); *provided, however*, that the Holders of a majority in aggregate principal amount of the then outstanding Notes may rescind an acceleration and its consequences, including any related payment default that resulted from such acceleration. Upon any such waiver, such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other Default or impair any right consequent thereon.

Section 6.05 *Control by Majority.*

Subject to Section 7.01(e) hereof, Holders of a majority in aggregate principal amount of the then outstanding Notes may direct the time, method and place of conducting any proceeding for exercising any remedy available to the Trustee or exercising any trust or power conferred on it (including in its capacity as Collateral Agent). However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture that the Trustee determines (including by receiving an Opinion of Counsel) may be unduly prejudicial to the rights of other Holders of Notes or that may involve the Trustee in personal liability.

Section 6.06 *Limitation on Suits.*

Except to enforce the right to receive payment of principal, premium, if any, or interest when due, no Holder of a Note may pursue any remedy with respect to the Indenture or the Notes unless:

- (1) such Holder gives to the Trustee prior written notice that an Event of Default is continuing;
- (2) Holders of at least 25% in aggregate principal amount of the then outstanding Notes make a written request to the Trustee to pursue the remedy;
- (3) such Holders have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against any loss, liability or expense;
- (4) the Trustee has not complied with the request within 60 days after receipt of the request and the offer of security or indemnity; and
- (5) during such 60-day period, Holders of a majority in aggregate principal amount of the then outstanding Notes have not given the Trustee a direction inconsistent with such request.

A Holder of a Note may not use this Indenture to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note.

Section 6.07 *Rights of Holders of Notes to Receive Payment.*

Notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, premium, if any, and interest on the Note, on or after the respective due dates expressed in the Note (including in connection with an offer to purchase), or to bring suit for the

enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.08 *Collection Suit by Trustee.*

If an Event of Default specified in Section 6.01(1) or (2) hereof occurs and is continuing, the Trustee is authorized to recover judgment in its own name and as Trustee of an express trust against the Company for the whole amount of principal of, premium, if any, and interest remaining unpaid on, the Notes and interest on overdue principal and, to the extent lawful, interest and such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

Section 6.09 *Trustee May File Proofs of Claim.*

The Trustee is authorized to file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and the Holders of the Notes allowed in any judicial proceedings relative to the Company (or any other obligor upon the Notes), its creditors or its property and shall be entitled and empowered to collect, receive and distribute any money or other property payable or deliverable on any such claims and any custodian in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 hereof. To the extent that the payment of any such compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 7.06 hereof out of the estate in any such proceeding, shall be denied for any reason, payment of the same shall be secured by a Lien on, and shall be paid out of, any and all distributions, dividends, money, securities and other properties that the Holders may be entitled to receive in such proceeding whether in liquidation or under any plan of reorganization or arrangement or otherwise. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 *Priorities.*

If the Trustee collects any money pursuant to this Article 6, it shall pay out the money in the following order:

First: to the Trustee and Collateral Agent, its agents and attorneys for amounts due under Section 7.06 hereof, including payment of all compensation, expenses and liabilities incurred, and all advances made, by the Trustee and the costs and expenses of collection;

Second: to Holders of Notes for amounts due and unpaid on the Notes for principal, premium, if any, and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal, premium, if any and interest, respectively; and

Third: to the Company or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a record date and payment date for any payment to Holders of Notes pursuant to this Section 6.10.

Section 6.11 *Undertaking for Costs.*

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to any suit by the Trustee, any suit by a Holder of a Note pursuant to Section 6.07 hereof, or any suit by Holders of more than 10% in aggregate principal amount of the then outstanding Notes.

ARTICLE 7
TRUSTEE

Section 7.01 *Duties of Trustee.*

(a) If an Event of Default has occurred and is continuing, the Trustee will exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) Except during the continuance of an Event of Default:

(1) the duties of the Trustee will be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee will examine the certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

(c) The Trustee may not be relieved from liabilities for its own grossly negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

(2) the Trustee will not be liable for any error of judgment made in good faith by a Responsible Officer, unless it is proved that the Trustee was grossly negligent in ascertaining the pertinent facts; and

(3) the Trustee will not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 hereof.

(d) Whether or not therein expressly so provided, every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b), and (c) of this Section 7.01.

(e) No provision of this Indenture will require the Trustee to expend or risk its own funds or incur any liability. The Trustee will be under no obligation to exercise any of its rights and powers under this Indenture at the request of any Holders, unless such Holder has offered to the Trustee security and indemnity satisfactory to it against any loss, liability or expense.

(f) The Trustee will not be liable for interest on any money received by it except as the Trustee may agree in writing with the Company. Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

(g) The Trustee shall not be bound to do or give any notice or take any act, action, proceeding for the enforcement of any of the obligations of the Company or any Guarantor under this Indenture unless and until it shall have received a direction pursuant to Section 6.05 specifying the act, action or proceeding which the Trustee is requested to take, nor shall the Trustee be required to take notice of any default hereunder, unless and until notified in writing of such default, which notice shall distinctly specify the default desired to be brought to the attention of the Trustee and, in the absence of any such notice, the Trustee may for all purposes of this Indenture conclusively assume that no default has been made in the observance or performance of any of the representations, debentures, covenants, agreements, or conditions contained herein.

(h) No duty shall rest with the Trustee to determine compliance of the transferor or transferee with applicable securities laws. The Trustee shall be entitled to assume that all transfers are legal and proper.

Section 7.02 *Rights of Trustee.*

(a) The Trustee may conclusively rely upon any document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee will not be liable for any action it takes or omits to take in good faith in reliance on such Officers' Certificate or Opinion of Counsel. The Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel will be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may act through its attorneys and agents and will not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee will not be liable for any action it takes or omits to take in good faith that it believes to be authorized or within the rights or powers conferred upon it by this Indenture.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Company will be sufficient if signed by an Officer of the Company.

(f) The Trustee will be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders have offered to

the Trustee reasonable indemnity or security against the losses, liabilities and expenses that might be incurred by it in compliance with such request or direction.

(g) The permissive rights of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, including acting as a receiver or manager of the assets of the Company and Guarantors.

Section 7.03 *Individual Rights of Trustee.*

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Company or any Affiliate of the Company with the same rights it would have if it were not Trustee. However, in the event that the Trustee acquires any conflicting interest it must eliminate such conflict within 90 days or resign. The Trustee is also subject to Section 7.09 hereof.

Section 7.04 *Trustee's Disclaimer.*

The Trustee will not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Company's use of the proceeds from the Notes or any money paid to the Company or upon the Company's direction under any provision of this Indenture, it will not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it will not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of certification.

Section 7.05 *Notice of Defaults.*

If a Default or Event of Default occurs and is continuing and if it is actually known to the Trustee, the Trustee will mail to Holders of Notes a notice of the Default or Event of Default within 90 days after it occurs unless such Default or Event of Default shall have been cured or waived before the giving of such notice.

Section 7.06 *Compensation and Indemnity.*

(a) The Company shall pay the Trustee reasonable remuneration for its services as trustee hereunder and shall pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in the administration or execution of the trusts hereby created (including the reasonable compensation and the disbursements of Trustee counsel and all other advisers and assistants not regularly in its employ who have been retained by the Trustee) both before any default hereunder and thereafter until all the duties of the Trustee shall be firmly and fully performed, except any such expense, disbursement or advance as may arise from failure to perform its obligations hereunder. Any amount due under this Section 7.06 and unpaid 30 days after request for such payment shall bear interest from the expiration of such 30 days at a rate per annum equal to the then current rate charged by the Trustee from time to time, payable on demand. After default, all amounts so payable and the interest thereon shall be payable out of any funds coming into the possession of the Trustee or its successors in the trusts hereunder in priority to any payment of the principal of, or interest or premium, if any, on, the Notes. Such remuneration shall continue to be payable until the trusts hereof shall be finally wound up, whether or not the trusts of this Indenture shall be in course of administration by or under the direction of a court.

(b) The Company and the Guarantors will jointly and severally indemnify the Trustee, or any predecessor Trustee, (and its officers, agents, directors and employees) against any and all losses,

liabilities or expenses incurred by it arising out of or in connection with the acceptance or administration of its duties under this Indenture, including the costs and expenses of enforcing this Indenture against the Company and the Guarantors (including this Section 7.06) and defending itself against any claim (whether asserted by the Company, the Guarantors, any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its gross negligence or bad faith. The Trustee will notify the Company promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Company will not relieve the Company or any of the Guarantors of their obligations hereunder. The Company or such Guarantor will defend the claim and the Trustee will cooperate in the defense. The Trustee may have separate counsel and the Company will pay the reasonable fees and expenses of such counsel. Neither the Company nor any Guarantor need pay for any settlement made without its consent, which consent will not be unreasonably withheld. Without limiting the generality of the foregoing, the obligation to indemnify, defend and save harmless in accordance herewith shall apply in respect of liabilities suffered by, imposed upon, incurred in any way connected with or arising from, directly or indirectly, any Environmental Laws.

(c) The obligations of the Company and the Guarantors under this Section 7.06 will survive the satisfaction and discharge of this Indenture and shall survive the removal or resignation of the Trustee under this Indenture.

(d) To secure the Company's and the Guarantors' payment obligations in this Section 7.06, the Trustee will have a Lien prior to the Notes on all money or property held or collected by the Trustee, except that held in trust to pay principal and interest on particular Notes. Such Lien will survive the satisfaction and discharge of this Indenture.

(e) When the Trustee incurs expenses or renders services after an Event of Default specified in Section 6.01(7) or (8) hereof occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

Section 7.07 *Replacement of Trustee.*

(a) A resignation or removal of the Trustee and appointment of a successor Trustee will become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.07.

(b) The Trustee may resign in writing at any time and be discharged from the trust hereby created by so notifying the Company. The Holders of a majority in aggregate principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Company in writing. The Company may remove the Trustee if:

- (1) the Trustee fails to comply with Section 7.09 hereof;
- (2) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;
- (3) a custodian or public officer takes charge of the Trustee or its property; or
- (4) the Trustee becomes incapable of acting.

(c) If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Company will promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in aggregate principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Company.

(d) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, the Company, or the Holders of at least 10% in aggregate principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee, after written request by any Holder who has been a Holder for at least six months, fails to comply with Section 7.09 hereof, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) A successor Trustee will deliver a written acceptance of its appointment to the retiring Trustee and to the Company. Thereupon, the resignation or removal of the retiring Trustee will become effective, and the successor Trustee will have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee will mail a notice of its succession to Holders. The retiring Trustee will promptly transfer all property held by it as Trustee to the successor Trustee; *provided* all sums owing to the Trustee hereunder have been paid and subject to the Lien provided for in Section 7.06 hereof. Notwithstanding replacement of the Trustee pursuant to this Section 7.07, the Company's obligations under Section 7.06 hereof will continue for the benefit of the retiring Trustee.

Section 7.08 *Successor Trustee by Merger, etc.*

If the Trustee consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business to, another corporation, the successor corporation without any further act will be the successor Trustee.

Section 7.09 *Eligibility; Disqualification.*

There will at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of Canada or of any province thereof that is authorized under such laws to exercise corporate trust powers.

ARTICLE 8 LEGAL DEFEASANCE AND COVENANT DEFEASANCE

Section 8.01 *Option to Effect Legal Defeasance or Covenant Defeasance.*

The Company may at any time, at the option of its Board of Directors evidenced by a resolution set forth in an Officers' Certificate, elect to have either Section 8.02 or 8.03 hereof be applied to all outstanding Notes upon compliance with the conditions set forth below in this Article 8.

Section 8.02 *Legal Defeasance and Discharge.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.02, the Company and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be deemed to have been discharged from their obligations with respect to all outstanding Notes (including the Note Guarantees) on the date the conditions set forth below are satisfied (hereinafter, "*Legal Defeasance*"). For this purpose, Legal Defeasance means that the Company and the

Guarantors will be deemed to have paid and discharged the entire Indebtedness represented by the outstanding Notes (including the Note Guarantees), which will thereafter be deemed to be "outstanding" only for the purposes of Section 8.05 hereof and the other Sections of this Indenture referred to in clauses (1) and (2) below, and to have satisfied all their other obligations under such Notes, the Note Guarantees and this Indenture (and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging the same), except for the following rights, obligations and provisions which will survive until otherwise terminated or discharged hereunder:

(1) the rights of Holders of outstanding Notes to receive payments in respect of the principal of, or interest or premium, if any, on, such Notes when such payments are due from the trust referred to in Section 8.04 hereof;

(2) the Company's obligations with respect to the Notes concerning issuing temporary notes, registration of notes, mutilated, destroyed, lost or stolen notes and the maintenance of an office or agency for payment and money for security payments held in trust including under Article 2 and Section 4.02 hereof;

(3) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Company's and the Guarantors' obligations in connection therewith; and

(4) this Article 8.

Subject to compliance with this Article 8, the Company may exercise its option under this Section 8.02 notwithstanding the prior exercise of its option under Section 8.03 hereof.

Section 8.03 *Covenant Defeasance.*

Upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, the Company and each of the Guarantors will, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, be released from each of their obligations under the covenants contained in Sections 4.07, 4.08, 4.09, 4.10, 4.11, 4.12, 4.13, 4.15, 4.16, 4.17, 4.18, 4.19 and 4.20 hereof and clause (4) of Section 5.01 hereof with respect to the outstanding Notes on and after the date the conditions set forth in Section 8.04 hereof are satisfied (hereinafter, "*Covenant Defeasance*"), and the Notes will thereafter be deemed not "outstanding" for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but will continue to be deemed "outstanding" for all other purposes hereunder (it being understood that such Notes will not be deemed outstanding for accounting purposes). For this purpose, *Covenant Defeasance* means that, with respect to the outstanding Notes and Note Guarantees, the Company and the Guarantors may omit to comply with and will have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply will not constitute a Default or an Event of Default under Section 6.01 hereof, but, except as specified above, the remainder of this Indenture and such Notes and Note Guarantees will be unaffected thereby. In addition, upon the Company's exercise under Section 8.01 hereof of the option applicable to this Section 8.03, subject to the satisfaction of the conditions set forth in Section 8.04 hereof, Sections 6.01(3) through 6.01(5) hereof will not constitute Events of Default.

Section 8.04 *Conditions to Legal or Covenant Defeasance.*

In order to exercise either Legal Defeasance or Covenant Defeasance under either Section 8.02 or 8.03 hereof:

(1) the Company must irrevocably deposit with the Trustee, in trust, for the benefit of the Holders, cash in Canadian dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized investment bank in the United States or Canada, appraisal firm, or firm of independent public accountants, to pay the principal of, premium, if any, and interest on, the outstanding Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be, and the Company must specify whether the Notes are being defeased to such stated date for payment or to a particular redemption date;

(2) in the case of Legal Defeasance or Covenant Defeasance, the Company must deliver to the Trustee an Opinion of Counsel confirming that the Holders and beneficial owners of the outstanding Notes will not recognize income, gain or loss for Canadian federal, provincial, territorial income tax or other tax purposes as a result of such Legal Defeasance or Covenant Defeasance, as applicable, and will be subject to Canadian federal, provincial or territorial income tax and other tax on the same amounts, if any, in the same manner and at the same times as would have been the case if such Legal Defeasance or Covenant Defeasance, as the case may be, had not occurred (which condition may not be waived by any Holder of outstanding Notes or the Trustee);

(3) no Default or Event of Default shall have occurred and be continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit);

(4) such Legal Defeasance or Covenant Defeasance will not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which the Company or any of its Restricted Subsidiaries is a party or by which the Company or any of its Restricted Subsidiaries is bound;

(5) the Company must deliver to the Trustee an Officers' Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders of Notes over the other creditors of the Company with the intent of defeating, hindering, delaying or defrauding any creditors of the Company or others; and

(6) the Company must deliver to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent relating to the Legal Defeasance or the Covenant Defeasance have been complied with.

Section 8.05 *Deposited Money and Government Securities to be Held in Trust; Other Miscellaneous Provisions.*

Subject to Section 8.06 hereof, all money and non-callable Government Securities (including the proceeds thereof) deposited with the Trustee (or other qualifying trustee, collectively for purposes of this Section 8.05, the "Trustee") pursuant to Section 8.04 hereof in respect of the outstanding Notes will be held in trust and applied by the Trustee, in accordance with the provisions of such Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as Paying Agent) as the Trustee may determine, to the Holders of such Notes of all sums due and to become due thereon in respect of principal, premium, if any, and interest, but such money need not be segregated from other funds except to the extent required by law.

The Company will pay and indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the cash or non-callable Government Securities deposited pursuant to Section 8.04

hereof or the principal and interest received in respect thereof other than any such tax, fee or other charge which by law is for the account of the Holders of the outstanding Notes.

Notwithstanding anything in this Article 8 to the contrary, the Trustee will deliver or pay to the Company from time to time upon the request of the Company any money or non-callable Government Securities held by it as provided in Section 8.04 hereof which, in the opinion of a nationally recognized firm of independent public accountants expressed in a written certification thereof delivered to the Trustee (which may be the opinion delivered under Section 8.04(1) hereof), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent Legal Defeasance or Covenant Defeasance.

Section 8.06 *Repayment to Company.*

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of, premium, if any, or interest on, any Note and remaining unclaimed for two years after such principal, premium, if any, or interest has become due and payable shall be paid to the Company on its request or (if then held by the Company) will be discharged from such trust; and the Holder of such Note will thereafter be permitted to look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, will thereupon cease; *provided, however*, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in the Globe and Mail, notice that such money remains unclaimed and that, after a date specified therein, which will not be less than 30 days from the date of such notification or publication, any unclaimed balance of such money then remaining will be repaid to the Company.

Section 8.07 *Reinstatement.*

If the Trustee or Paying Agent is unable to apply any Canadian dollars or non-callable Government Securities in accordance with Section 8.02 or 8.03 hereof, as the case may be, by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, then the Company's and the Guarantors' obligations under this Indenture and the Notes and the Note Guarantees will be revived and reinstated as though no deposit had occurred pursuant to Section 8.02 or 8.03 hereof until such time as the Trustee or Paying Agent is permitted to apply all such money in accordance with Section 8.02 or 8.03 hereof, as the case may be; *provided, however*, that, if the Company makes any payment of principal of, premium, if any, or interest on, any Note following the reinstatement of its obligations, the Company will be subrogated to the rights of the Holders of such Notes to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE 9 AMENDMENT, SUPPLEMENT AND WAIVER

Section 9.01 *Without Consent of Holders of Notes.*

Notwithstanding Section 9.02 of this Indenture, the Company, the Guarantors and the Trustee may amend or supplement this Indenture or the Notes or the Note Guarantees or the Collateral Documents without the consent of any Holder of Note:

- (1) to cure any ambiguity, defect or inconsistency;

(2) to provide for uncertificated Notes in addition to or in place of certificated Notes;

(3) to provide for the assumption of the Company's or a Guarantor's obligations to the Holders of the Notes and Note Guarantees by a successor to the Company or such Guarantor pursuant to Article 5 or Article 10 hereof;

(4) to make any change that would provide any additional rights or benefits to the Holders of the Notes or that does not adversely affect the legal rights hereunder of any Holder;

(5) to conform the text of this Indenture, the Note Guarantees, the Notes or the Collateral Documents to any provision of the "Description of Notes" section of the Company's Offering Memorandum dated April 25, 2011 (the "Description of Notes"), relating to the initial offering of the Notes, to the extent that such provision in that "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture, the Note Guarantees, the Notes or the Collateral Documents or to the extent any provision of this Indenture, the Note Guarantees, the Notes or the Collateral Documents differs in a material respect from any provision of the Description of Notes;

(6) to provide for the issuance of Additional Notes in accordance with the limitations set forth in this Indenture as of the date hereof;

(7) to allow any Guarantor to execute a supplemental indenture and/or a Note Guarantee with respect to the Notes;

(8) provide for the succession of a successor Trustee or Collateral Agent under this Indenture;

(9) expand the Collateral securing the Notes or Note Guarantees, and, in the case of the Collateral Documents, to or for the benefit of the other secured parties named therein or to confirm and evidence the release, termination or discharge of any Note Guarantee of or Lien securing the Notes when such release, termination or discharge is permitted by this Indenture and the Collateral Documents;

(10) provide for the accession or succession of any parties to the Collateral Documents (and other amendments that are administrative or ministerial in nature) in connection with an amendment, renewal, extension, substitution, refinancing, restructuring, replacement, supplementing or other modification from time to time of the Notes or any other agreement or action that is not prohibited by this Indenture; or

(11) provide for the release or addition of Collateral in accordance with the terms of this Indenture and the Collateral Documents.

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee will join with the Company and the Guarantors in the execution of any amended or supplemental indenture authorized or permitted by the terms of this Indenture and to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee will not be obligated to enter into such amended or supplemental indenture that affects its own rights, duties or immunities under this Indenture or otherwise.

Section 9.02 *With Consent of Holders of Notes.*

Except as provided below in this Section 9.02, the Company and the Trustee may amend or supplement this Indenture (including, without limitation, Section 3.09, 4.10 and 4.15 hereof) and the Notes and the Note Guarantees and the Collateral Documents with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, Additional Notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes), and, subject to Sections 6.04 and 6.07 hereof, any existing Default or Event of Default (other than a Default or Event of Default in the payment of the principal of, premium, if any, or interest on, the Notes, except a payment default resulting from an acceleration that has been rescinded) or compliance with any provision of this Indenture or the Notes or the Note Guarantees or Collateral Documents may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes (including, without limitation, Additional Notes, if any) voting as a single class (including, without limitation, consents obtained in connection with a tender offer or exchange offer for, or purchase of, the Notes).

Upon the request of the Company accompanied by a resolution of its Board of Directors authorizing the execution of any such amended or supplemental indenture or Collateral Documents, and upon the filing with the Trustee of evidence satisfactory to the Trustee of the consent of the Holders of Notes as aforesaid, and upon receipt by the Trustee of the documents described in Section 7.02 hereof, the Trustee will join with the Company and the Guarantors in the execution of such amended or supplemental indenture or Collateral Documents unless such amended or supplemental indenture or Collateral Documents directly affects the Trustee's own rights, duties or immunities under this Indenture, Collateral Documents or otherwise, in which case the Trustee may in its discretion, but will not be obligated to, enter into such amended or supplemental Indenture or Collateral Documents.

It is not necessary for the consent of the Holders of Notes under this Section 9.02 to approve the particular form of any proposed amendment, supplement or waiver, but it is sufficient if such consent approves the substance thereof.

After an amendment, supplement or waiver under this Section 9.02 becomes effective, the Company will mail to the Holders of Notes affected thereby a notice briefly describing the amendment, supplement or waiver. Any failure of the Company to mail such notice, or any defect therein, will not, however, in any way impair or affect the validity of any such amended or supplemental indenture, Collateral Documents or waiver. Subject to Sections 6.04 and 6.07 hereof, the Holders of a majority in aggregate principal amount of the Notes then outstanding voting as a single class may waive compliance in a particular instance by the Company with any provision of this Indenture or the Notes or the Note Guarantees or the Collateral Documents. However, without the consent of each Holder affected, an amendment, supplement or waiver under this Indenture may not:

- (1) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;
- (2) reduce the principal of or change the fixed maturity of any Note or alter or waive any of the provisions with respect to the redemption of the Notes (except as provided above with respect to Sections 3.09, 4.10 and 4.15 hereof);
- (3) reduce the rate of or change the time for payment of interest, including default interest, on any Note;

(4) waive a Default or Event of Default in the payment of principal of, or premium, if any, or interest on, the Notes (except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the then outstanding Notes and a waiver of the payment default that resulted from such acceleration);

(5) make any Note payable in money other than that stated in the Notes;

(6) make any change in the provisions of this Indenture relating to waivers of past Defaults or the rights of Holders of Notes to receive payments of principal of, or interest or premium, if any, on, the Notes;

(7) waive a redemption payment with respect to any Note (other than a payment required by Sections 3.09, 4.10 or 4.15 hereof);

(8) release any Guarantor from any of its obligations under its Note Guarantee or this Indenture, except in accordance with the terms of this Indenture;

(9) make any change to the Collateral Documents that would in any way be adverse to the holders of the Notes;

(10) impair the right to institute suit for the enforcement of any payment on or with respect to the Notes or the Note Guarantees;

(11) amend, change, modify or waive the obligation of the Company to make and consummate a Change of Control Offer or an Asset Sale Offer, including, in each case, by amending, changing, or modifying any definitions relating to such offers, after the obligation to make either such offer has arisen;

(12) amend or modify any of the provisions of this Indenture or the related definitions affecting the ranking of the Notes or any Note Guarantee in any manner adverse to holders of the Notes or any Note Guarantee; or

(13) make any change in the preceding amendment and waiver provisions.

Section 9.03 *Compliance with Applicable Legislation.*

Every amendment or supplement to this Indenture or the Notes will be set forth in an amended or supplemental indenture that complies with Application Legislation (as defined in Section 12.01).

Section 9.04 *Revocation and Effect of Consents.*

Until an amendment, supplement or waiver becomes effective, a consent to it by a Holder of a Note is a continuing consent by the Holder of a Note and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder of a Note or subsequent Holder of a Note may revoke the consent as to its Note if the Trustee receives written notice of revocation before the date the amendment, supplement or waiver becomes effective. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

Section 9.05 *Notation on or Exchange of Notes.*

The Company in exchange for all Notes may issue and the Trustee shall, upon receipt of an Certification Order, certify new Notes that reflect the amendment, supplement or waiver.

Failure to make the appropriate notation or issue a new Note will not affect the validity and effect of such amendment, supplement or waiver.

Section 9.06 *Trustee to Sign Amendments, etc.*

The Trustee will sign any amended or supplemental indenture or Collateral Documents authorized pursuant to this Article 9 if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. The Company may not sign an amended or supplemental indenture or Collateral Documents until the Board of Directors of the Company approves it. In executing any amended or supplemental indenture or Collateral Documents, the Trustee will be entitled to receive and (subject to Section 7.01 hereof) will be fully protected in relying upon, in addition to the documents required by Section 12.03 hereof, an Officers' Certificate and an Opinion of Counsel stating that the execution of such amended or supplemental indenture is authorized or permitted by this Indenture.

ARTICLE 10
NOTE GUARANTEES

Section 10.01 *Guarantee.*

(a) Subject to this Article 10, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Holder of a Note certified and delivered by the Trustee and to the Trustee and its successors and assigns, irrespective of the validity and enforceability of this Indenture, the Notes or the obligations of the Company hereunder or thereunder, that:

(1) the principal of, premium, if any, and interest on, the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Company to the Holders, the Trustee or the Collateral Agent under this Indenture, any supplemental indenture, the Notes and the Collateral Documents will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and

(2) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. The liability of each Guarantor shall bear interest from the date any such amount so guaranteed was due at the rate or rates of interest then applicable to such obligations or amount under and calculated in the manner provided in this Indenture.

Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) The Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of (i) any bankruptcy or insolvency proceeding with respect to the Company or any

Restricted Subsidiary or any other Person; (ii) any limitation, discharge, or cessation of the liability of the Company or any other Person for any obligations under this Indenture, any supplemental indenture or the Notes due to any statute, regulation or rule of law, or any invalidity or unenforceability in whole or in part of any of obligations thereunder; (iii) any sale, lease, transfer or other disposition of any or all of the assets of the Company, any Restricted Subsidiary or other Person, including any sale of any interest in the Company; (iv) any claim, defence, counterclaim or setoff, other than that of prior performance, that the Company, any Restricted Subsidiary, or any other Person may have or assert, including any defence of incapacity or lack of capacity to execute or deliver this Indenture or any other document related to this Note Guarantee; (v) the Holders' vote, claim, distribution, election, acceptance, action or inaction in any bankruptcy or insolvency proceeding related to the obligations guaranteed by this Note Guarantee; (vi) any change in the name, objects, Capital Stock or constitution of the Company or any Restricted Subsidiary, (vii) any waiver, release, extension, renewal, settlement, surrender, alteration or compromise of any of this Indenture, the Notes, or any of the Collateral, now or hereafter acquired by the Company in which a security interest shall exist in favour of any of the Trustee, the Collateral Agent or the Holders to secure the obligations guaranteed by this Note Guarantee, whether by operation of law or otherwise; (viii) the Trustee or the Collateral Agent's exercise or non-exercise of any power, right or remedy with respect to any of the Collateral, including the Holders' compromise, release, settlement or waiver with or of any of the Company or any other Person; (ix) any impairment or invalidity of any of the Collateral or any failure to perfect any of the Trustee's, Collateral Agent's or Holders' security interests thereon or therein; and (x) any other guarantee, whether by any Restricted Subsidiary or any other Person, of all or any part of the obligations guaranteed by this Note Guarantee or any other indebtedness, obligations or liabilities of the Company to the Holders. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever and covenant that this Note Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Indenture.

(c) The Trustee and the Holders shall not be bound to exhaust their recourse against the Company or any other Person being entitled to payment under this Note Guarantee and each Guarantor renounces all benefits of discussion and division.

(d) If any Holder or the Trustee is required by any court or otherwise to return to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Company or the Guarantors, any amount paid by either to the Trustee or such Holder, this Note Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

(e) Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Holders in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided in Article 6 hereof for the purposes of this Note Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided in Article 6 hereof, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Note Guarantee. The Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under the Note Guarantee.

(f) Until all of the obligations guaranteed under this Note Guarantee have been paid in full, each Guarantor irrevocably waives any rights which it may have at any time by reason of the performance of any of its obligations under this Note Guarantee (i) to be indemnified by the Company, (ii) to claim

contribution from any other Guarantor of the debts, liabilities or obligations of the Company, or (iii) to take the benefit (in whole or in part whether by way of subrogation or otherwise) of any rights of the Trustee, the Collateral Agent or the Holders under this Indenture, any supplemental indenture, the Notes or any Collateral Document.

Section 10.02 Limitation on Guarantor Liability.

Each Guarantor, and by its acceptance of Notes, each Holder, hereby confirms that it is the intention of all such parties that the Note Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law or any similar federal or provincial law to the extent applicable to any Note Guarantee. To effectuate the foregoing intention, the Trustee, the Holders and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 10, result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent transfer or conveyance.

Section 10.03 Execution and Delivery of Note Guarantee.

To evidence its Note Guarantee set forth in Section 10.01 hereof, each Guarantor hereby agrees that a notation of such Note Guarantee substantially in the form attached as Exhibit B hereto will be endorsed by an Officer of such Guarantor on each Note certified and delivered by the Trustee and that this Indenture will be executed on behalf of such Guarantor by one of its Officers.

Each Guarantor hereby agrees that its Note Guarantee set forth in Section 10.01 hereof will remain in full force and effect notwithstanding any failure to endorse on each Note a notation of such Note Guarantee.

If an Officer whose signature is on this Indenture or on the Note Guarantee no longer holds that office at the time the Trustee certifies the Note on which a Note Guarantee is endorsed, the Note Guarantee will be valid nevertheless.

The delivery of any Note by the Trustee, after the certification thereof hereunder, will constitute due delivery of the Note Guarantee set forth in this Indenture on behalf of the Guarantors.

Section 10.04 *Guarantors May Consolidate, etc., on Certain Terms.*

Except as otherwise provided in Section 10.05 hereof, no Guarantor may sell or otherwise dispose of all or substantially all of its assets to, or consolidate with, amalgamate with or merge with or into (whether or not such Guarantor is the surviving Person) another Person, other than the Company or another Guarantor, unless:

(1) immediately after giving effect to such transaction, no Default or Event of Default exists; and

(2) either:

(a) subject to Section 10.05 hereof, the Person acquiring the property in any such sale or disposition or the Person formed by or surviving any such consolidation or merger

unconditionally assumes all the obligations of that Guarantor under this Indenture, its Note Guarantee and the Collateral Documents on the terms set forth herein or therein, pursuant to a supplemental indenture in form and substance reasonably satisfactory to the Trustee; or

(b) the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of this Indenture, including without limitation, Section 4.10 hereof.

In case of any such consolidation, merger, sale, amalgamation or conveyance and upon the assumption by the successor Person, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee and its counsel, of the Note Guarantee endorsed upon the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Guarantor, such successor Person will succeed to and be substituted for the Guarantor with the same effect as if it had been named herein as a Guarantor. Such successor Person thereupon may cause to be signed any or all of the Note Guarantees to be endorsed upon all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee. All the Note Guarantees so issued will in all respects have the same legal rank and benefit under this Indenture as the Note Guarantees theretofore and thereafter issued in accordance with the terms of this Indenture as though all of such Note Guarantees had been issued at the date of the execution hereof.

Except as set forth in Articles 4 and 5 hereof, and notwithstanding clauses 2(a) and (b) above, nothing contained in this Indenture or in any of the Notes will prevent any consolidation or merger of a Guarantor with or into the Company or another Guarantor, or will prevent any sale or conveyance of the property of a Guarantor as an entirety or substantially as an entirety to the Company or another Guarantor.

Section 10.05 *Releases.*

(a) In the event of any sale or other disposition of all or substantially all of the assets of any Guarantor, by way of merger, consolidation or otherwise, or a sale or other disposition of all of the Capital Stock of any Guarantor, in each case to a Person that is not (either before or after giving effect to such transactions) the Company or a Restricted Subsidiary of the Company, then such Guarantor (in the event of a sale or other disposition, by way of merger, consolidation or otherwise, of all of the Capital Stock of such Guarantor) or the corporation acquiring the property (in the event of a sale or other disposition of all or substantially all of the assets of such Guarantor) will be released and relieved of any obligations under its Note Guarantee and the Collateral Documents; *provided* that the Net Proceeds of such sale or other disposition are applied in accordance with the applicable provisions of this Indenture, including without limitation Section 4.10 hereof. Upon delivery by the Company to the Trustee of an Officers' Certificate and an Opinion of Counsel to the effect that such sale or other disposition was made by the Company in accordance with the provisions of this Indenture, including without limitation Section 4.10 hereof, the Trustee will execute any documents reasonably required in order to evidence the release of any Guarantor from its obligations under its Note Guarantee and the Collateral Documents.

(b) Upon designation of any Guarantor as an Unrestricted Subsidiary in accordance with the terms of this Indenture, such Guarantor will be released and relieved of any obligations under its Note Guarantee and the Collateral Documents.

(c) Upon Legal Defeasance in accordance with Article 8 hereof or satisfaction and discharge of this Indenture in accordance with Article 11 hereof, each Guarantor will be released and relieved of any obligations under its Note Guarantee and the Collateral Documents.

Any Guarantor not released from its obligations under its Note Guarantee and the Collateral Documents as provided in this Section 10.05 will remain liable for the full amount of principal of and

interest and premium, if any, on the Notes and for the other obligations of any Guarantor under this Indenture as provided in this Article 10.

Section 10.06 *Continuing Guarantee*

This Note Guarantee is a continuing guarantee, extending to all present and future obligations guaranteed hereby, and applying to and securing the ultimate balance of the amounts guaranteed hereby due or remaining due to the Trustee, the Collateral Agent and the Holders. This Note Guarantee shall be binding as a continuing obligation of each Guarantor until the Trustee releases such Guarantor in accordance with the terms of this Indenture. This Note Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the amounts guaranteed hereby is rescinded or must otherwise be returned by the Trustee or the Holders upon the insolvency, bankruptcy, or reorganization of the Company, all as though such payment has not been made.

ARTICLE 11 SATISFACTION AND DISCHARGE

Section 11.01 *Satisfaction and Discharge.*

This Indenture will be discharged and will cease to be of further effect as to all Notes issued hereunder, when:

(1) either:

(a) all Notes that have been certified, except lost, stolen or destroyed Notes that have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust and thereafter repaid to the Company, have been delivered to the Trustee for cancellation; or

(b) all Notes that have not been delivered to the Trustee for cancellation have become due and payable by reason of the mailing of a notice of redemption or otherwise or will become due and payable within one year and the Company or any Guarantor has irrevocably deposited or caused to be deposited with the Trustee as trust funds in trust solely for the benefit of the Holders, cash in Canadian dollars, non-callable Government Securities, or a combination thereof, in such amounts as will be sufficient, without consideration of any reinvestment of interest, to pay and discharge the entire Indebtedness on the Notes not delivered to the Trustee for cancellation for principal, premium, if any, and accrued interest to the date of maturity or redemption;

(2) no Default or Event of Default has occurred and is continuing on the date of such deposit (other than a Default or Event of Default resulting from the borrowing of funds to be applied to such deposit) and the deposit will not result in a breach or violation of, or constitute a default under, any other instrument to which the Company or any Guarantor is a party or by which the Company or any Guarantor is bound;

(3) the Company or any Guarantor has paid or caused to be paid all sums payable by it under this Indenture; and

(4) the Company has delivered irrevocable instructions to the Trustee under this Indenture to apply the deposited money toward the payment of the Notes at maturity or on the redemption date, as the case may be.

In addition, the Company must deliver an Officers' Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been satisfied.

Notwithstanding the satisfaction and discharge of this Indenture, if money has been deposited with the Trustee pursuant to subclause (b) of clause (1) of this Section 11.01, the provisions of Sections 11.02 and 8.06 hereof will survive. In addition, nothing in this Section 11.01 will be deemed to discharge those provisions of Section 7.06 hereof, that, by their terms, survive the satisfaction and discharge of this Indenture.

Section 11.02 *Application of Trust Money.*

Subject to the provisions of Section 8.06 hereof, all money deposited with the Trustee pursuant to Section 11.01 hereof shall be held in trust and applied by it, in accordance with the provisions of the Notes and this Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal (and premium, if any) and interest for whose payment such money has been deposited with the Trustee; but such money need not be segregated from other funds except to the extent required by law.

If the Trustee or Paying Agent is unable to apply any money or Government Securities in accordance with Section 11.01 hereof by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's and any Guarantor's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 11.01 hereof; *provided that* if the Company has made any payment of principal of, premium, if any, or interest on, any Notes because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Notes to receive such payment from the money or Government Securities held by the Trustee or Paying Agent.

ARTICLE 12 MISCELLANEOUS

Section 12.01 *Trust Indenture Legislation.*

In this Section 12.01, the term "Applicable Legislation" means the provisions, if any, of any statute of Canada or a province thereof, and of regulations under any such statute, relating to trust indentures and to the rights, duties, and obligations of trustees under trust indentures and of Persons issuing debt obligations under trust indentures, to the extent that such provisions are at the time in force and applicable to this Indenture.

If and to the extent that any provision of this Indenture limits, qualifies, or conflicts with a mandatory requirement of Applicable Legislation, such mandatory requirement shall prevail.

The Company, the Trustee, and each Holder shall at all times, in relation to this Indenture and any action to be taken hereunder, observe and comply with and be entitled to the benefits of Applicable Legislation, as applicable.

Section 12.02 *Notices.*

Any notice or communication by the Company, any Guarantor or the Trustee to the others is duly given if in writing and delivered in Person or by first class mail (registered or certified, return receipt

requested), facsimile transmission or overnight air courier guaranteeing next day delivery, to the others' address:

If to the Company and/or any Guarantor:

Data & Audio-Visual Enterprises Wireless Inc.
101 Exchange Avenue
Vaughan, ON L4K 5R6
Facsimile No.: (416) 650-9706
Attention: Chief Operating Officer

With a copy to:
Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario M5L 1B9
Facsimile No.: (416) 947-0866
Attention: Dee Rajpal

If to the Trustee:
Equity Financial Trust Company
200 University Avenue, Suite 400
Toronto, ON M5H 4H1
Facsimile No.: (416) 361-0470
Attention: Corporate Trust

The Company, any Guarantor or the Trustee, by notice to the others, may designate additional or different addresses for subsequent notices or communications.

All notices and communications (other than those sent to Holders) will be deemed to have been duly given: at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when receipt acknowledged, if transmitted by facsimile; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery.

Any notice or communication to a Holder will be mailed by first class mail, certified or registered, return receipt requested, or by overnight air courier guaranteeing next day delivery to its address shown on the register. Failure to mail a notice or communication to a Holder or any defect in it will not affect its sufficiency with respect to other Holders.

If a notice or communication is mailed in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Company mails a notice or communication to Holders, it will mail a copy to the Trustee at the same time.

Section 12.03 *Certificate and Opinion as to Conditions Precedent.*

Upon any request or application by the Company to the Trustee to take any action under this Indenture, the Company shall furnish to the Trustee:

(1) an Officers' Certificate in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 12.04 hereof) stating that, in the opinion of the signers, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been satisfied; and

(2) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which must include the statements set forth in Section 12.04 hereof) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been satisfied.

Section 12.04 *Statements Required in Certificate or Opinion.*

Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture and must include:

(1) a statement that the Person making such certificate or opinion has read such covenant or condition;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been satisfied; and

(4) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been satisfied.

Section 12.05 *Meetings.*

- a) The Trustee may make reasonable rules for action by or at a meeting of Holders. The Paying Agent may make reasonable rules and set reasonable requirements for its function.
- b) The Trustee or the Company may at any time and from time to time, and the Trustee shall, on receipt of a written request of the Company or a written request signed by the holders of not less than 25% of the aggregate principal amount of Notes then outstanding and upon receiving funding and being indemnified to its reasonable satisfaction by the Company or by the Holders signing such request against the costs which may be incurred in connection with the calling and holding of such meeting, convene a meeting of the Holders. In the event of the Trustee failing, within 30 days after receipt of any such request and such funding and indemnity, to give notice convening a meeting, the Company or such Holders, as the case may be, may convene such meeting. Every such meeting shall be held in the City of Toronto, Ontario or at such other place as may be approved or determined by the Trustee.
- c) An individual, who need not be a Holder, nominated in writing by the Company (if the Company convenes the meeting) or the Trustee (in any other case) shall be chairman of the meeting and if no individual is so nominated, or if the individual so nominated is not present within 15 minutes from the time fixed for the holding of the meeting, a majority of the Holders present in person or by proxy shall choose some individual present to be chairman.

- d) The chairman of any meeting may, with the consent of the holders of a majority in principal amount of the Notes represented thereat, adjourn any such meeting and no notice of such adjournment need be given except such notice, if any, as the meeting may prescribe.
 - e) Every question submitted to a meeting shall, subject to Section 12.05(f), be decided by a show of hands. At any such meeting, unless a poll is duly demanded as herein provided, a declaration by the chairman that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact. The chairman of any meeting shall be entitled, both on a show of hands and on a poll, to vote in respect of the Notes, if any, held by him or which are represented by a proxy given in his favour.
 - f) On any question submitted to a meeting when demanded by the chairman or by one or more Holder or proxies for Holders, a poll shall be taken in such manner and either at once or after an adjournment as the chairman shall direct.
 - g) A Holder may be present and vote at any meeting of Holders by an authorized representative. The Company (in case it convenes the meeting) or the Trustee (in any other case) for the purpose of enabling the Holders to be present and vote at any meeting without producing their Notes, and of enabling them to be present and vote at any such meeting by proxy and of lodging instruments appointing such proxies at some place other than the place where the meeting is to be held, may from time to time make and vary such regulations as it shall think fit providing for and governing any or all of the following matters:
 - i. the form of the instrument appointing a proxy, which shall be in writing, and the manner in which the same shall be executed and the production of the authority of any Person signing on behalf of a Holder;
 - ii. the deposit of instruments appointing proxies at such place as the Trustee, the Company or the Holder convening the meeting, as the case may be, may, in the notice convening the meeting, direct and the time, if any, before the holding of the meeting or any adjournment thereof by which the same must be deposited; and
 - iii. the deposit of instruments appointing proxies at some approved place or places other than the place at which the meeting is to be held and enabling particulars of such instruments appointing proxies to be mailed, faxed, or sent by other electronic means before the meeting to the Company or to the Trustee at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting.
- Any regulations so made shall be binding and effective and the votes given in accordance therewith shall be valid and shall be counted. Save as such regulations may provide, the only Persons who shall be recognized at any meeting as the holders of any Notes, or as entitled to vote or be present at the meeting in respect thereof, shall be Holders and their authorized representatives and Persons whom Holders have by instrument in writing duly appointed as their proxies.
- h) The Company and the Trustee, by their respective trustees, employees, officers and directors, the auditors of the Company and the legal advisers of the Company, the Trustee or any Holder may attend any meeting of the Holders, but shall have no vote as such.

- i) Minutes of all resolutions and proceedings at every meeting as aforesaid shall be made and duly entered in books to be from time to time provided for that purpose by the Trustee at the expense of the Company, and any such minutes as aforesaid, if signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting of the Holders, shall be *prima facie* evidence of the matters therein stated and, until the contrary is proved, every such meeting, in respect of the proceedings of which minutes shall have been made, shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings taken thereat to have been duly passed and taken.
- j) Every resolution passed in accordance with the provisions of this Section 12.05 at a meeting of Holders shall be binding upon all the Holders, whether present at or absent from such meeting.

Section 12.06 *No Personal Liability of Directors, Officers, Employees and Stockholders.*

No past, present or future director, officer, employee, incorporator or stockholder of the Company or any Guarantor, as such, will have any liability for any obligations of the Company or the Guarantors under the Notes, this Indenture, the Note Guarantees, the Collateral Documents or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. The waiver may not be effective to waive liabilities under the federal securities laws.

Section 12.07 *Governing Law.*

This Indenture, the Notes, the Note Guarantees and the Collateral Documents will be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein and shall be treated as Ontario contracts.

Section 12.08 *No Adverse Interpretation of Other Agreements.*

This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 12.09 *Successors.*

All agreements of the Company in this Indenture and the Notes will bind its successors. All agreements of the Trustee in this Indenture will bind its successors. All agreements of each Guarantor in this Indenture will bind its successors, except as otherwise provided in Section 10.05 hereof.

Section 12.10 *Severability.*

In case any provision in this Indenture or in the Notes is invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

Section 12.11 *Counterpart Originals.*

The parties may sign any number of copies of this Indenture. Each signed copy will be an original, but all of them together represent the same agreement.

Section 12.12 *Table of Contents, Headings, etc.*

The Table of Contents, Cross-Reference Table and Headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part of this Indenture and will in no way modify or restrict any of the terms or provisions hereof.

Section 12.13 *Currency.*

Except as otherwise provided herein, all references in this Indenture to "dollars" or "\$" are to lawful money of Canada.

Section 12.14 *Day not a Business Day.*

In the event that any calendar day on or before which any action required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding calendar day that is a Business Day.

Section 12.15 *Time of the Essence.*

Time shall be of the essence in this Indenture.

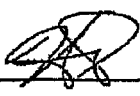
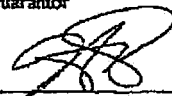
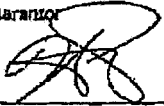
Section 12.16 *Benefits of Indenture.*

Nothing in this Indenture or in the Notes, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any Paying Agent, the holders of Notes and the Trustee, any benefit or any legal or equitable right, remedy or claim under this Indenture.

[Signature Pages Follow]

SIGNATURES

Dated as of April 29, 2011

DATA AND AUDIO-VISUAL ENTERPRISES
WIRELESS INC., IssuerBy:  _____Name:
Title:DATA AND AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., GuarantorBy:  _____Name:
Title:DATA AND AUDIO-VISUAL ENTERPRISES
LEASING INC., GuarantorBy:  _____Name:
Title:EQUITY FINANCIAL TRUST COMPANY, as Trustee
and Collateral Agent

By: _____

Name:
Title:

By: _____

Name:
Title:

SIGNATURES

Dated as of April 29, 2011

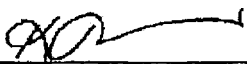
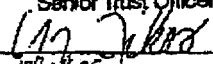
DATA AND AUDIO-VISUAL ENTERPRISES
WIRELESS INC., IssuerBy: _____
Name:
Title:DATA AND AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., GuarantorBy: _____
Name:
Title:DATA AND AUDIO-VISUAL ENTERPRISES
LEASING INC., GuarantorBy: _____
Name:
Title:EQUITY FINANCIAL TRUST COMPANY, as Trustee
and Collateral AgentBy:  _____
Name: Kathy Thorpe
Title: Senior Trust OfficerBy:  _____
Name: C. Mikos
Title: SENIOR ADVISOR TRUST SERVICES

EXHIBIT A

CUSIP: []

No. ____

\$195,000,000

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

9.5% FIRST LIEN SENIOR SECURED NOTES DUE APRIL 29, 2018

Data & Audio-Visual Enterprises Wireless Inc. (the "Company") for value received hereby promises to pay to CDS & Co., the registered holder hereof (the "Holder"), on April 29, 2018 (the "Maturity"), or on such earlier date as the principal (or a portion thereof) may become due and payable in accordance with the provisions of the Indenture (as defined below), on presentation and surrender of this 9.5% First Lien Senior Secured Note due April 29, 2018 (the "Note"), the principal amount in lawful money of Canada at the office of Equity Financial Trust Company (the "Trustee") at 200 University Ave., Suite 400, Toronto, Ontario M5H 4H1, and to accrue interest from the date hereof (the "Issue Date") and pay interest on the principal at the rate of 9.5% per annum, at the address of the Holder appearing on the register of the Notes maintained by or at the direction of the Trustee.

Registered in the name of CDS & Co.

9.5% FIRST LIEN SENIOR SECURED NOTES DUE APRIL 29, 2018

This Note is a Global Note within the meaning of the Trust Indenture dated as of April 29, 2011 between Data & Audio-Visual Enterprises Wireless Inc. and Equity Financial Trust Company (the "Indenture") and is registered in the name of a Depository or a nominee thereof. This Note may not be transferred to or exchanged for Notes registered in the name of any Person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Note certified and delivered upon registration of, transfer of, or in exchange for, or in lieu of, this Note shall be a Global Note subject to the foregoing, except in such limited circumstances described in the Indenture.

Unless this certificate is presented by an authorized representative of CDS Clearing and Depository Services Inc. ("CDS") to Data & Audio-Visual Enterprises Wireless Inc. (the "Company") or its agent for registration of transfer, exchange or payment, and any certificate issued in respect thereof is registered in the name of CDS & CO., or in such other name as is requested by an authorized representative of CDS (and any payment is made to CDS & CO. or to such other entity as is requested by an authorized representative of CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered holder hereof, CDS & CO., has a property interest in the securities represented by this certificate herein and it is a violation of its rights for another person to hold, transfer or deal with this certificate.

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) APRIL 29, 2011, AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY.

[THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY STATE SECURITIES LAW AND MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE ISSUER, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT, (C) WITHIN THE UNITED STATES IN COMPLIANCE WITH (I) RULE 144 UNDER THE ACT, OR (II) RULE 144A UNDER THE ACT, AND IN EACH CASE IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE ACT OR ANY APPLICABLE STATE SECURITIES LAWS, AND THE HOLDER HAS, PRIOR TO SUCH SALE, FURNISHED TO THE ISSUER AN OPINION OF COUNSEL SATISFACTORY TO THE ISSUER.

DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA. AT ANY TIME THAT THE ISSUER IS A "FOREIGN ISSUER" (AS DEFINED IN RULE 902 UNDER THE ACT), A NEW CERTIFICATE, BEARING NO LEGEND, THE DELIVERY OF WHICH WILL CONSTITUTE "GOOD DELIVERY" MAY BE OBTAINED FROM THE TRUSTEE UPON DELIVERY OF THIS CERTIFICATE AND A DULY EXECUTED DECLARATION, IN A FORM SATISFACTORY TO THE ISSUER, TO THE EFFECT THAT THE SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT AND, IF REQUESTED BY THE ISSUER OR THE TRUSTEE, AN OPINION OF COUNSEL OF RECOGNIZED STANDING, EACH IN A FORM SATISFACTORY TO THE THE ISSUER, TO THE EFFECT THAT SUCH SALE OF THE

SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT.][INCLUDE IN US NOTE ONLY]

Capitalized terms used herein have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

(1) *INTEREST.* The Company promises to pay interest on the principal amount of this Note at 9.5% per annum from April 29, 2011 until maturity which is April 29, 2018. The Company will pay interest semi-annually in arrears on March 31 and September 30 of each year, or if any such day is not a Business Day, on the next succeeding Business Day (each, an "Interest Payment Date"). The first Interest Payment Date shall be September 30, 2011. The Company will pay interest on overdue principal and premium, if any, from time to time on demand at a rate that is 1% per annum in excess of the rate then in effect to the extent lawful. Interest will be computed on the basis of a 365-day year. In the case of any interest period that is shorter than a full semi-annual interest period, interest will be calculated on the basis of a 365-day year and the actual number of days elapsed in that period.

(2) *METHOD OF PAYMENT.* The Company will pay interest on the Notes to the Persons who are registered Holders of Notes at the close of business on the March 15 and September 15 next preceding the Interest Payment Date, even if such Notes are canceled after such record date and on or before such Interest Payment Date. Such payment will be in such coin or currency of Canada as at the time of payment is legal tender for payment of public and private debts.

(3) *INDENTURE.* The Company issued the Notes under a Trust Indenture dated as of April 29, 2011 (the "Indenture") among the Company, the Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of such terms. To the extent any provision of this Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling.

(4) *GUARANTEE.* For value received, each Guarantor (which term includes any successor Person under the Indenture) has, jointly and severally, unconditionally guaranteed, to the extent set forth in the Indenture (a) the due and punctual payment of the principal of, premium and Additional Amounts, if any, and interest on, the Notes, whether at maturity, by acceleration, redemption or otherwise, the due and punctual payment of interest on overdue principal of and interest on the Notes, if any, if lawful, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee all in accordance with the terms of the Indenture and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Note Guarantee and the Indenture are expressly set forth in Article 10 of the Indenture and reference is hereby made to the Indenture for the precise terms of the Note Guarantee.

(5) *OPTIONAL REDEMPTION.* At any time and from time to time prior to the third anniversary of the Issue Date, upon not less than 30 nor more than 60 days' prior written notice, the Company, at its option, may redeem the Notes, in whole or in part, at a redemption price equal to the sum of (i) 100% of the principal amount of the Notes to be redeemed, *plus* (ii) the greater of (x) the Applicable Premium as of the redemption date and (y) 1%, *plus* (iii) accrued

and unpaid interest on such Notes to but not including the redemption date (subject to the right of holders of the Notes on the relevant record date to receive interest due on an interest payment date falling on or prior to the redemption date).

At any time and from time to time prior to the third anniversary of the Issue Date, upon not less than 30 nor more than 60 days' prior written notice, the Company, at its option, may redeem up to 35% of the aggregate principal amount of the Notes, in whole or in part, at a redemption price equal to 109.5% of the principal amount of the Notes to be redeemed *plus* accrued and unpaid interest on such Notes to but not including the redemption date (subject to the right of holders of the Notes on the relevant record date to receive interest due on an interest payment date falling on or prior to the redemption date) with the net cash proceeds of an Equity Offering by Holdings; provided that:

(1) at least 65% of the aggregate principal amount of the Notes originally issued under the Indenture remains outstanding immediately after the occurrence of such redemption; and

(2) the redemption occurs within 90 days of the date of the closing of such Equity Offering.

On or after the third anniversary of the Issue Date, the Company may redeem all or a part of the Notes upon not less than 30 nor more than 60 days' notice, at the redemption prices (expressed as percentages of principal amount) set forth below plus accrued and unpaid interest on the Notes redeemed, to the applicable redemption date, if redeemed during the twelve-month periods indicated below, subject to the rights of holders of Notes on the relevant record date to receive interest on the relevant interest payment date:

Year	Percentage
third to fourth anniversary of the Issue Date.....	104.75%
fourth to fifth anniversary of the Issue Date.....	103.17%
fifth to sixth anniversary of the Issue Date.....	102.375%
sixth anniversary of the Issue Date and thereafter.....	100.00%

Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable redemption date.

(6) *MANDATORY REDEMPTION.*

The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes.

(7) *REPURCHASE AT THE OPTION OF HOLDER.*

(a) If there is a Change of Control, each Holder of Notes will have the right to require the Company to make an offer (a "*Change of Control Offer*") to such Holder to repurchase all or any part (equal to \$1,000 or an integral multiple thereof) of such Holder's Notes at a purchase price in cash equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest to the date of purchase, subject to the rights of Holders on the relevant record date to receive interest due on the relevant interest payment date (the "*Change of Control Payment*").

(b) When there are Excess Proceeds, within five days thereof, the Company will make an Asset Sale Offer to all holders of Notes and all holders of other First Priority Indebtedness that is *pari passu* with the Notes containing provisions similar to those set forth in the Indenture with respect to offers to purchase or redeem with the proceeds of sales of assets to purchase the maximum principal amount of Notes and such other *pari passu* First Priority Indebtedness that may be purchased out of the Excess Proceeds. The offer price in any Asset Sale Offer will be equal to 101% of the principal amount plus accrued and unpaid interest to the date of purchase, and will be payable in cash.

(8) *DENOMINATIONS, TRANSFER, EXCHANGE.* The Notes are in registered form without coupons in denominations of \$2,000 and integral multiples of \$1,000. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents and the Company may require a Holder to pay any taxes and fees required by law or permitted by the Indenture. The Company need not exchange or register the transfer of any Note or portion of a Note selected for redemption, except for the unredeemed portion of any Note being redeemed in part.

(9) *ISSUE OF SUBSTITUTIONAL NOTES.* If any mutilated Note is surrendered to the Trustee or the Company and the Trustee receives evidence to its satisfaction of the destruction, loss or theft of any Note, the Company shall issue and the Trustee, upon receipt of a written order of the Company signed by one Officer of the Company, shall certify a new Note of like date and tenor as the one mutilated, lost, destroyed, or stolen in exchange for and in place of and upon cancellation of such mutilated Note or in lieu of and in substitution for such lost, destroyed, or stolen Note. The substituted Note shall be in a form approved by the Trustee and shall be entitled to the benefit hereof and rank equally in accordance with its terms with all other Notes. The applicant for a new Note shall bear the cost of the issue thereof and in case of loss, destruction, or theft shall, as a condition precedent to the issue thereof, furnish to the Company and to the Trustee such evidence of ownership and of the loss, destruction, or theft of the Note so lost, destroyed, or stolen as shall be satisfactory to the Company and to the Trustee in their discretion, and such applicant shall also furnish indemnity and a third party surety bond, in amount and form satisfactory to the Company and the Trustee in their discretion, and shall pay the reasonable charges of the Company and the Trustee in connection therewith.

(10) *PERSONS DEEMED OWNERS.* The registered Holder of a Note may be treated as its owner for all purposes.

(11) *AMENDMENT, SUPPLEMENT AND WAIVER.* Subject to certain exceptions, the Indenture, the Notes, the Note Guarantees and the Collateral Documents may be amended or supplemented with the consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes voting as a single class, and any existing Default or Event or Default or compliance with any provision of the Indenture or the Notes or the Note Guarantees or the Collateral Documents may be waived with the consent of the Holders of a majority in aggregate principal amount of the then outstanding Notes voting as a single class. In certain circumstances the Indenture, the Notes, the Note Guarantees and the Collateral Documents may be amended or supplemented without the consent of any Holder of a Note.

(12) *TRUSTEE DEALINGS WITH COMPANY.* The Trustee, in its individual or any other capacity, or its affiliates or ultimate parent may make loans to, accept deposits from, and perform services for the Company or its Affiliates, and may otherwise deal with the Company or its Affiliates, as if it were not the Trustee.

(13) *NO RECOURSE AGAINST OTHERS.* A director, officer, employee, incorporator or stockholder of the Company or any of the Guarantors, as such, will not have any liability for any obligations of the Company or the Guarantors under the Notes, the Note Guarantees, the Indenture or the Collateral Documents or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the issuance of the Notes.

(14) *CERTIFICATION.* This Note will not be valid until certified by the manual signature of the Trustee or a certification agent.

(15) *GOVERNING LAW.* The Indenture, the Notes, the Note Guarantees and the Collateral Documents will be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable in Ontario.

Dated: April 29, 2011

DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC.

By: _____
Name:
Title:

This is one of the Notes referred to
in the within-mentioned Indenture:

EQUITY FINANCIAL TRUST COMPANY
as Trustee

By: _____
Authorized Signatory

ASSIGNMENT FORM

To assign this Note, fill in the form below:

(I) or (we) assign and transfer this Note to: _____
(Insert assignee's legal name)

(Insert assignee's social insurance number)

(Print or type assignee's name, address and Postal Code)

and irrevocably appoint _____
to transfer this Note on the books of the Company. The agent may substitute another to act for him.

Date: _____

Signature of Transferor: _____
(Sign exactly as your name appears on the face of this Note)

Signature Guarantee: _____

NOTICE: The signature to this transfer must correspond in every particular with the name as shown on the face of this certificate and the endorsement must be signature guaranteed, in either case, by a Canadian Schedule I Chartered Bank, or by a medallion signature guarantee from a member recognized under the Signature Medallion Guarantee Program or from a similar entity in the United States. The stamp affixed thereon by the guarantor must bear the actual words "signature guarantee", OR "signature medallion guarantee" or in accordance with industry standards.

EXHIBIT B**FORM OF JOINDER**

For value received, each Guarantor (which term includes any successor Person under the Indenture) has, jointly and severally, unconditionally guaranteed, to the extent set forth in the Indenture and subject to the provisions in the Indenture dated as of April __, 2011 (the "*Indenture*") among Data & Audio-Visual Enterprises Wireless Inc., (the "*Company*"), the Guarantors party thereto and Equity Financial Trust Company, as trustee (the "*Trustee*"), (a) the due and punctual payment of the principal of, premium and Additional Amounts, if any, and interest on, the Notes, whether at maturity, by acceleration, redemption or otherwise, the due and punctual payment of interest on overdue principal of and interest on the Notes, if any, if lawful, and the due and punctual performance of all other obligations of the Company to the Holders or the Trustee all in accordance with the terms of the Indenture and (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise. The obligations of the Guarantors to the Holders of Notes and to the Trustee pursuant to the Note Guarantee and the Indenture are expressly set forth in Article 10 of the Indenture and reference is hereby made to the Indenture for the precise terms of the Note Guarantee. The undersigned hereby acknowledges and agrees to the terms of the Indenture and agrees to be bound by all obligations of a Guarantor thereunder from and after the date hereof. Capitalized terms used but not defined herein have the meanings given to them in the Indenture.

[NAME OF GUARANTOR(S)]

By: _____
 Name:
 Title:

EXHIBIT C**FORM OF SUPPLEMENTAL INDENTURE
TO BE DELIVERED BY SUBSEQUENT GUARANTORS**

SUPPLEMENTAL INDENTURE (this "*Supplemental Indenture*"), dated as of _____, 20__ among _____ (the "*Guaranteeing Subsidiary*"), a subsidiary of _____ (or its permitted successor), a [] corporation (the "*Company*"), the Company, the other Guarantors (as defined in the Indenture referred to herein) and Equity Financial Trust Company, as trustee under the Indenture referred to below (the "*Trustee*").

WITNESSETH

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture (the "*Indenture*"), dated as of April 29, 2011 providing for the issuance of 9.5% First Lien Senior Secured Notes due April 29, 2018 (the "*Notes*");

WHEREAS, the Indenture provides that under certain circumstances the Guaranteeing Subsidiary shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Guaranteeing Subsidiary shall unconditionally guarantee all of the Company's Obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "*Note Guarantee*"); and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Guaranteeing Subsidiary and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. CAPITALIZED TERMS. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.
2. AGREEMENT TO GUARANTEE. The Guaranteeing Subsidiary hereby agrees to provide an unconditional Guarantee on the terms and subject to the conditions set forth in the Note Guarantee and in the Indenture including but not limited to Article 10 thereof.
4. NO RECOURSE AGAINST OTHERS. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Guaranteeing Subsidiary, as such, shall have any liability for any obligations of the Company or any Guaranteeing Subsidiary under the Notes, any Note Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the SEC that such a waiver is against public policy.
5. ONTARIO LAW TO GOVERN. This Supplemental Indenture will be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable in Ontario.
6. COUNTERPARTS. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

7. EFFECT OF HEADINGS. The Section headings herein are for convenience only and shall not affect the construction hereof.

8. THE TRUSTEE. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Guaranteeing Subsidiary and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: _____, 20__

[GUARANTEEING SUBSIDIARY]

By: _____
Name:
Title:

[COMPANY]

By: _____
Name:
Title:

[EXISTING GUARANTORS]

By: _____
Name:
Title:

[TRUSTEE],
as Trustee

By: _____
Authorized Signatory

EXHIBIT D**FORM OF LEASE/LICENSE CERTIFICATE**

To: Equity Financial Trust Company, as Collateral Agent (the "Collateral Agent")

From: [Holdings, the Company or DAVE Leasing, as applicable] (the "Obligor")

Dated: []

Dear Sirs:

1. This is a Lease/License Certificate. This Lease/License Certificate is provided by [], the [senior officer] of the Obligor, in such capacity and not in [his/her] personal capacity.
2. We confirm that, for the fiscal year to which this Lease/License Certificate relates:
 - a) the name, address and telephone number of the landlord or licensor (as the case may be) under each Lease or License entered into during such fiscal year is [•] *[NTD: Please specify]*;
 - b) each Lease or License entered into during such fiscal year contains an acknowledgement from the landlord or the licensor (as the case may be) that none of the equipment of the Obligor located on the premises to which such Lease or License relates is a fixture [except for •] *[NTD: If applicable, please list any Lease or License here]*; and
 - c) each Lease or License entered into during such fiscal year contains, or does not contain (as the case may be) (i) change of control provisions [yes/no] *[NTD: Circle as appropriate]*, (ii) provisions restricting the transfer of rights by the lessee or licensee [yes/no] *[NTD: Circle as appropriate]* or (iii) similar provisions [yes/no] *[NTD: Circle as appropriate]*.

Signed _____

[senior officer]

SUPPLEMENTAL INDENTURE

THIS SUPPLEMENTAL INDENTURE is made as of February 6, 2013

BETWEEN:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., a corporation incorporated under the laws of the Province of Ontario

(including its successors and assigns, "**Wireless**")

- and -

the Guarantors

- and -

EQUITY FINANCIAL TRUST COMPANY, a trust company existing under the federal laws of Canada, in its capacity as trustee under the Senior Secured Indenture (as defined below) on its own behalf and on behalf of the holders of Notes (as defined below)

(in such capacity, the "**Senior Trustee**")

RECITALS:

- A. Wireless, the Guarantors (collectively, with Wireless, "**Mobilicity**") and the Senior Trustee entered into an Indenture dated as of April 29, 2011 (the "**Senior Secured Indenture**") under which certain 9.5% First Lien Senior Secured Notes Due April 29, 2010 were issued (the "**Notes**").
- B. Mobilicity wishes to issue certain new 15.5% Second Lien Notes (the "**New Notes**") in a principal amount up to \$43.25 million to be issued pursuant to a Note Purchase Agreement (the "**Note Purchase Agreement**") made between Mobilicity and the purchasers of the New Notes, and to effect amendments consequential to the foregoing.
- C. To permit the issuance of the New Notes certain amendments are required to be made to the Senior Secured Indenture.
- D. Pursuant to resolutions of the Board of Directors of the Corporation and resolutions of the sole shareholder of each of the Guarantors, certified copies of which have been delivered to the Senior Trustee, the Corporation and the Guarantors have duly authorized the execution and delivery of this first supplemental indenture to the Senior Secured Indenture (the "**Supplemental Indenture**").
- E. The Senior Trustee has received the requisite consents of the Holders to effect the amendments and the Supplemental Indenture.
- F. All other acts, things and proceedings required by law and by the amended and restated certificate of incorporation and bylaws (or other constating documents) of the Corporation and the Guarantors necessary to make this Supplemental Indenture a valid

agreement of the Corporation and the Guarantors according to its terms have been done and preformed.

- G. The foregoing recitals are made as representations and statements of fact by Mobilicity and not by the Senior Trustee.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party hereto, it is hereby covenanted, agreed and declared as follows:

INTERPRETATION

1 Definitions

All capitalized terms not defined herein shall have the meanings given to them in the Senior Secured Indenture and in the Notes.

1.1 Interpretation

- (a) This Supplemental Indenture is supplemental to the Senior Secured Indenture and this Supplemental Indenture shall hereafter be read together and shall have effect, so far as practicable, with respect to the Notes as if all the provisions of the Senior Secured Indenture and this Supplemental Indenture were contained in one instrument. The Senior Secured Indenture is and shall remain in full force and effect with regards to all matters governing the Notes, as amended by this Supplemental Indenture.
- (b) In this Supplemental Indenture:
 - i. words importing the singular number or masculine gender shall include the plural number or the feminine or neuter genders, and vice versa;
 - ii. all references to Articles, Sections and Schedules refer, unless otherwise specified, to articles and sections of and schedules to this Supplemental Indenture; and
 - iii. words and terms denoting inclusiveness (such as "include" or "includes" or "including"), whether or not so stated, are not limited by and do not imply limitation of their context or the words or phrases which precede or succeed them.

2 Amendments to the Senior Secured Indenture

- (a) As of and from the date that any of the New Notes are first issued, the Senior Secured Indenture shall be amended as follows:
 - i. by amending Section 1.01 thereof to include the following:

"New Notes Indebtedness" has the meaning ascribed thereto in Section 4.09(b)(19) hereof.

"NPA" has the meaning ascribed thereto in Section 4.07(a)(3) hereof."

- ii. by amending the definition of "Subordinated Indebtedness" to add, immediately after the words "or any of its subsidiaries":

", as well as any New Notes Indebtedness"

- iii. by amending paragraph 4.07(a)(3) to add a new subparagraph (iii) as follows:

"(iii) a payment of (A) interest that becomes payable pursuant to Section 10 of the Note Purchase, Guarantee and Backstop Agreement (the "NPA") dated as of February 6, 2013 governing the purchase of 15.5% Second Lien Notes issued by the Company or any of its Restricted Subsidiaries; (B) the Liquidity Payment (as defined in the NPA), if and when it becomes payable pursuant to the NPA; and (C) any Excess Amount that becomes payable pursuant to the NPA."

- iv. by amending paragraph 4.07(a)(4) to add, immediately after the words "Stated Maturity thereof":

"provided, however, that (i) interest that becomes payable pursuant to the NPA; (ii) the Liquidity Payment (as defined in the NPA), if and when it becomes payable pursuant to the NPA; and (iii) any Excess Amount that becomes payable pursuant to the NPA shall not be Restricted Payments and shall be permitted under this Indenture"

- v. by amending paragraph 4.08(b)(10) to remove the word "and" from the end of that paragraph;

- vi. by amending paragraph 4.08(b)(11) to replace "." at the end of that paragraph with "; and"; and

- vii. by amending subsection 4.08(b) to include a new paragraph (12), which shall state:

"(12) the terms of the NPA."

- viii. by amending paragraph 4.09(b)(17) to remove the word "and" from the end of that paragraph;

- ix. by amending paragraph 4.09(b)(18) to replace "." at the end of that paragraph with "; and"; and

- x. by amending subsection 4.09(b) to include a new paragraph (19), which shall state:

"(19) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness under (i) a Note Purchase, Guarantee and Backstop Agreement dated as of February 6, 2013, and the 15.5% Second Lien Notes issued thereunder by the Company or any of its Restricted Subsidiaries in the principal amount of \$43.25 million (plus interest, fees, costs and all other amounts owing thereunder, including the Excess Amount) and the

Liquidity Payment (as defined therein); or (II) any guarantees associated therewith ((I) and (II), collectively, being "New Notes Indebtedness").";

xi. by amending the definition of "Permitted Liens" to:

- a. remove the word "and" from the end of paragraph (13);
- b. replace "." at the end of paragraph (14) with "; and"; and
- c. include a new paragraph (15), which shall state:

"(15) Liens to secure Indebtedness permitted by Section 4.09(b)(19)".

GENERAL PROVISIONS

Confirmation of Senior Secured Indenture

The Senior Secured Indenture, as amended by this Supplemental Indenture shall be and continue in full force and effect and is in all respects hereby confirmed. The Notes shall continue in full force and effect as originally issued pursuant to the Senior Secured Indenture, except as amended hereunder, and are in all respect hereby confirmed.

On and after the date hereof, in the Senior Secured Indenture, the Notes, any guarantees of the Notes, or the Collateral Documents (other than this Supplemental Indenture), any reference to (A) the Senior Secured Indenture, by any name or defined term, shall be construed as a reference to the Senior Secured Indenture as amended and supplemented by this Supplemental Indenture; and (B) the Notes, by any name or defined term, shall be construed as a reference to the Notes as amended and supplemented by this Supplemental Indenture.

Governing Laws

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

Further Assurances

The parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Supplemental Indenture, and each party shall provide such further documents or instruments required by the other party as may be reasonably necessary or desirable to effect the purpose of this Supplemental Indenture and carry out its provisions.

Acceptance of Trust

The Senior Trustee has received noteholder resolutions dated February 6, 2013 signed by the Required Holders of Record (as defined therein) on behalf of the Holder (as defined therein), approving, inter alia, this Supplemental Indenture (the "**Noteholder Resolutions**"). The Senior Trustee has also received a confirmation letter from counsel to the Required Beneficial Holders (as defined in the Noteholder Resolutions), dated February 6, 2013, and noteholder statements

dated on or before February 6, 2013 signed by each Required Beneficial Holder associated with such Noteholder Resolutions (collectively, the "**Associated Documents**"). The Senior Trustee confirms that the Noteholder Resolutions together with the Associated Documents constitute evidence satisfactory to the Senior Trustee of the consent of the Holders of at least a majority in aggregate principal amount of the Notes outstanding as of January 31, 2013 in accordance with Section 9.02 of the Senior Secured Indenture.

The Senior Trustee hereby accepts the trusts in this Supplemental Indenture declared and provided for and agrees to execute the trust created by the Senior Secured Indenture as hereby amended, but only upon the terms and conditions set forth in the Senior Secured Indenture, including the terms and provisions defining and limiting the liabilities and responsibilities of the Senior Trustee, and without limiting the generality of the foregoing, the Senior Trustee shall not be responsible in any manner whatsoever for or with respect to any of the recitals contained herein, all of which recitals are made solely by the Company, or for or with respect to (i) the validity or sufficiency of this Supplemental Indenture or any of the terms or provisions hereof, (ii) the proper authorization hereof by the Company and the Guarantors by corporate action or otherwise, (iii) the due execution hereof by the Company and the Guarantors, and (iv) the consequences (direct or indirect and whether deliberate or inadvertent) of any amendment herein provided for, and the Senior Trustee makes no representation with respect to any such matters.

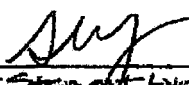
Counterparts

This Supplemental Indenture may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

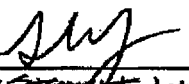
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IN WITNESS WHEREOF the parties hereto have executed this Supplemental Indenture as of the date first written above.

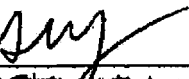
**DATA AND AUDIO-VISUAL ENTERPRISES
WIRELESS INC., Issuer**

By: 
Name: Stewart Lyons
Title: President

**DATA AND AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., Guarantor**

By: 
Name: Stewart Lyons
Title: President

**DATA AND AUDIO-VISUAL ENTERPRISES
LEASING INC., Guarantor**

By: 
Name: Stewart Lyons
Title: President

EQUITY FINANCIAL TRUST COMPANY, as
Trustee and Collateral Agent

By: 
Name: Kathy Thorpe
Title: Senior Trust Officer

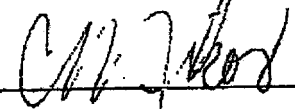
By: 
Name: Carol Mikos
Title: Senior Advisor Trust Services

Exhibit “D”

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.**\$35,000,000****15.5% Senior Secured Notes****NOTE PURCHASE, GUARANTEE AND BACKSTOP AGREEMENT****Dated February 6, 2013**

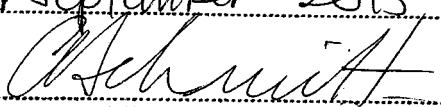
This is Exhibit D referred to in the
affidavit of William Aziz
sworn before me, this 29
day of September 2013

A COMMISSIONER IN CHIEF TAKING AFFIDAVITS

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NOTE PURCHASE, GUARANTEE AND BACKSTOP AGREEMENT
15.5% Senior Secured Notes

THIS AGREEMENT made as of the 6th day of February, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

- and -

EQUITY FINANCIAL TRUST COMPANY
solely in its capacity as collateral agent, together with its successors and
assigns
(the "Collateral Agent")

1. DEFINITIONS

Capitalized terms used in this Agreement are defined in Schedule D.

2. SALE AND PURCHASE OF SENIOR SECURED NOTES

2.1 Purchase and Sale

Subject to the terms and conditions of this Agreement, the Issuer shall issue and sell to the Purchasers and the Purchasers shall purchase from the Issuer up to CDN\$35,000,000 in aggregate principal amount of second lien secured promissory notes (the "Notes") on the terms set forth herein, which Notes shall be in the form set out in Exhibit A hereto and in the amounts set forth on Schedule E hereto. The aggregate purchase price for all of the Notes issued from time to time in accordance with the terms set forth herein shall be \$35,000,000 (the "Purchase Price"). The Purchasers' obligations hereunder are several and not joint or joint and several obligations, each in accordance with Schedule A, and no Purchaser shall have liability to any Person for the performance or non-performance by any Person (other than such Purchaser). The

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terms of the Notes are set forth in this Agreement and in the Notes. The Notes will be secured by the Security. The security structure is described more fully in Section 6.

2.2 Closing

The closing of the purchase and sale of the Initial Notes pursuant to this Agreement shall be held at the offices of Goodmans LLP, at 12:00PM on February 6, 2013 (the "**Initial Closing Date**"). The closing of the purchase and sale of the Subsequent Notes shall occur on the date on which the conditions precedent set out in Section 11.2 of this Agreement are satisfied (the "**Subsequent Closing Date**"). The closing of the purchase and sale of the Final Notes shall occur on the date on which the conditions precedent set out in Section 11.3 of this Agreement are satisfied (the "**Final Closing Date**") and together with the Initial Closing Date and the Subsequent Closing Date, each a "**Closing Date**").

2.3 Delivery

On the applicable Closing Date, the Issuer shall deliver to the Purchasers the applicable Notes, duly executed, and free and clear of all Liens (other than Permitted Liens) and each Purchaser shall pay the Purchase Price for its pro rata share of the applicable Notes being issued on such Closing Date to the Issuer.

3. TERMS OF THE NOTES

3.1 Commitment

Each Purchaser severally, and not jointly or jointly and severally, commits to purchase its pro rata share of the Notes on the applicable Closing Date, in accordance with its commitment set forth on Schedule A hereto (each, a "**Commitment**" and collectively, the "**Total Commitment**"), in each case subject to the satisfaction of the conditions precedent set out in Article 11.

3.2 Termination by Purchasers

Notwithstanding anything herein to the contrary, and in addition to all other rights of the Purchasers under this Agreement, this Agreement and the Commitment of each Purchaser hereunder may be terminated at the option of the Purchasers if the Initial Closing Date has not occurred on or before February 8, 2013.

3.3 Interest Rate

Interest shall be paid at the rate of 15.5% per annum (the "**Interest Rate**"), to be paid pursuant to the terms set forth in Section 10.

3.4 Bridge Funding Fee

The Issuer agrees to pay to the Purchasers a bridge funding fee in an amount equal to \$8,250,000 in the aggregate (the "**Bridge Funding Fee**"), to be distributed to each Purchaser *pro rata* in accordance with its Commitment, which fee shall be payable in kind through the issuance of

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additional Notes on the Initial Closing Date. The Bridge Funding Fee shall be fully earned upon the issuance of the Initial Notes on the Initial Closing Date.

3.5 Liquidity Payment

Upon the consummation of: (i) a Sale Transaction, (ii) a Change of Control, in each case with the prior approval of the Purchasers (each, a "Liquidity Event"), the Purchasers shall be entitled to a liquidity payment in an amount equal to \$7,000,000 in the aggregate (the "Liquidity Payment"), to be distributed *pro rata* to each Purchaser in accordance with its Commitment. The Liquidity Payment shall be fully payable upon the consummation of a Liquidity Event, provided that the Liquidity Payment shall not be payable if the Final Order has been issued in form and substance satisfactory to the Purchasers and the Notes have been repaid in full with the proceeds of the Follow-on Notes.

3.6 Currency of Fees and Repayment

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

3.7 Purpose

- (a) Subject to the following paragraph, the proceeds from the Notes shall be used for general corporate and working capital purposes of the Issuer and to pay general operating expenses of the Issuer, including the payment of legal fees and expenses incurred in connection with this Agreement and the transactions contemplated hereunder.
- (b) Notwithstanding the foregoing, the proceeds from the Notes shall only be used in accordance with the Cash Flow Forecast that has been approved by the Purchasers. For the avoidance of doubt, no proceeds from the Notes shall be used to fund any debt structuring fees (including any placement or similar fees) without the consent of the Purchasers, other than fees payable to the Purchasers and their respective Advisors.

4.FOLLOW-ON FACILITY

4.1 Follow-on Facility

Each Purchaser severally, and not jointly or jointly and severally, commits to purchase its *pro rata* share (calculated in accordance with such Purchaser's *pro rata* share of the Total Commitment hereunder) of up to \$75,000,000 of Follow-on Notes to be issued by the Issuer under the Follow-on Facility, subject to the implementation of the Plan, which shall have been approved by the Purchasers and be subject to satisfaction of all conditions precedent in connection therewith, including execution and delivery of definitive agreements entered into with respect to the Follow-on Facility, as agreed between the Issuer and the Purchasers. Notwithstanding the foregoing, to the extent any holder of Senior Unsecured Debentures and/or Pari Passu Convertible Debentures as at December 31, 2012 exercises its right under the Plan to purchase its *pro rata* share of Follow-on Notes, the Purchasers' obligation to purchase Follow-on Notes shall be reduced by such amount.

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5. DECISIONS BY PURCHASERS

- 5.1 Subject to Section 5.2, any actions taken or not taken under this Agreement or any other document delivered in connection herewith by the Purchasers may be taken upon the direction of Purchasers who hold Notes in an aggregate principal amount equal to at least 66 2/3% of aggregate principal amount of the then outstanding Notes (the "Required Purchasers").
- 5.2 The following actions may only be taken with the prior unanimous written consent of all of the Purchasers:
- (a) approving the Plan or amending the Plan following the initial approval thereof;
 - (b) increasing the principal amount of the Notes or the Commitment of any Purchaser hereunder;
 - (c) decreasing the Interest Rate or fees applicable to the Notes;
 - (d) extending the date for payment of principal, interest, fees or any other amount relating to the Notes;
 - (e) amending the Maturity Date of the Notes;
 - (f) the subordination of the Security (other than to the Liens in favour of the Senior Agent) or permitting new or existing indebtedness (other than Senior Obligations) to rank ahead of or *pari passu* with the Notes or the Security Documents;
 - (g) the release or material amendment of the Security Documents; and
 - (h) any amendment to Section 3.2 or this Section 5 of the Agreement.

6. SECURITY

- 6.1 As security for payment and performance of all obligations of the Issuer and the Guarantors under or in connection with this Agreement, the Notes and all other obligations hereunder and under the other Transaction Documents (including all interest, fees and expenses payable hereunder or under the Notes, the Liquidity Payment and the Excess Amount (if any)), the Issuer and each Guarantor shall grant a second-priority perfected Lien in all of its property, assets and undertaking of the Issuer and the Guarantors, subject only to the Permitted Liens (the "Security") to the Collateral Agent for the benefit of itself and the Purchasers.
- 6.2 For the purposes of this Agreement, "Lien" means any mortgage, charge, hypothec, lien and security interest of any kind or nature whatsoever.

7. SUBORDINATION TO SENIOR OBLIGATIONS

All indebtedness and all security and all claims, liabilities and other obligations owing pursuant to or in connection with this Agreement and the Notes, whether on account of principal, interest

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or otherwise, shall be fully and effectively subordinated and postponed to the full and final payment of all Senior Obligations, and shall rank behind the Senior Obligations, and each Purchaser agrees to and shall be bound by the provisions of this Section 7.

8.MANDATORY REPAYMENT

- 8.1 The Notes (together with any unpaid and accrued interest thereon) shall be repayable in full on the date (the "Maturity Date") which is the earlier of (i) the date on which a Liquidity Event is consummated; (ii) the date on which the a final order has been issued by a court of competent jurisdiction in respect of the Plan, the Plan has been implemented and all other conditions precedent to the Follow-on Facility have been met and the Follow-on Notes have been issued; (iii) May 30, 2013; and (iv) the date on which demand is made following the occurrence of an Event of Default that has not been waived by the Required Purchasers and that has resulted in an acceleration of the Notes. The Notes will also be subject to repayment upon the occurrence of any events that require the Issuer to make an offer or otherwise redeem the Senior Notes under the Senior Indenture, subject to the prior repayment in full of all Senior Obligations, unless such requirement is waived in accordance with the terms of the Senior Indenture.
- 8.2 The Notes (together with any unpaid and accrued interest thereon) shall be repayable upon any mandatory repayment obligation under the Senior Indenture, subject to the prior repayment in full of all Senior Obligations, unless such obligation is waived in accordance with the terms of the Senior Indenture, and shall be payable to each Purchaser *pro rata* in accordance with its Commitment.

9.VOLUNTARY REPAYMENTS

Voluntary prepayments shall be permitted at any time and subject to payment of the total amount owing in respect of principal upon repayment, accrued interest and the applicable fees described above, provided in each case that such payment is permitted under the Senior Indenture.

10.PAYMENT OF INTEREST

- 10.1 Interest shall be payable monthly in arrears in cash on the first Business Day of each month and on the Maturity Date, commencing on March 1, 2013 in respect of interest accrued to and including February 28, 2013. Interest shall be calculated daily for the actual number of days elapsed in the period during which it accrues based on a year of 365 days and interest shall compound on each payment date, to the extent not paid when due. "Business Day" means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Toronto, Ontario, Canada.
- 10.2 For purposes of the *Interest Act* (Canada), where in this Agreement or in the Notes a rate of interest is to be calculated on the basis of a year of 365 days, the yearly rate of interest to which the rate is equivalent is the rate multiplied by the actual number of days in the year for which the calculation is made and divided by 365, as applicable.

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10.3 The parties shall comply with the following provisions to ensure that no receipt by the Purchasers of any payments to the Purchasers hereunder would result in a breach of section 347 of the *Criminal Code* (Canada):

- (a) If any provision of this Agreement or any of the other documents related to this Agreement would obligate the Issuer to make any payment to the Purchasers of an amount that constitutes "interest", as such term is defined in the *Criminal Code* (Canada) and referred to in this section as "**Criminal Code interest**", during any one-year period after the date of the first issuance of Notes in an amount or calculated at a rate which would result in the receipt by the Purchasers of Criminal Code interest at a criminal rate (as defined in the *Criminal Code* (Canada) and referred to in this section as a "**criminal rate**"), then, notwithstanding such provision, that amount or rate during such one-year period shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not result in the receipt by the Purchasers during such one-year period of Criminal Code interest at a criminal rate, and the adjustment shall be effected, to the extent necessary, as follows:
 - (i) first, by reducing the amount or rate of interest required to be paid to the Purchasers during such one-year period; and
 - (ii) thereafter, by reducing the upfront fees and liquidity payments and other amounts required to be paid to the Purchasers during such one-year period which would constitute Criminal Code interest.

The dollar amount of all such reductions made during any one-year period is referred to in this section as the "**Excess Amount**".

- (b) Any Excess Amount shall be payable and paid by the Issuer to the Purchasers in the then next succeeding one-year period or then next succeeding one-year periods until paid to the Purchasers in full, subject to the same limitations and qualifications set out in paragraph (a), so that the amount of Criminal Code interest payable or paid during any subsequent one-year period shall not exceed an amount that would result in the receipt by the Purchasers of Criminal Code interest at a criminal rate.
- (c) Any amount or rate of Criminal Code interest referred to in this section shall be calculated and determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term that any Notes remain outstanding on the assumption that any charges, fees or expenses that constitute Criminal Code interest shall be pro-rated over the period commencing on the date of the first issuance of Notes and ending on the relevant Maturity Date (as may be extended by the Purchasers from time to time hereunder) and, in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Purchasers shall be conclusive for the purposes of such calculation and determination.

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- 10.4 If the Notes are not repaid when due, all amounts then owing under or in respect of the Notes will bear interest at the Interest Rate plus 2% per annum, compounded monthly on the last day of each month, and payable on demand.

11. CONDITIONS PRECEDENT TO FUNDING

11.1 Conditions Precedent to issuance of Initial Notes

The purchase by each Purchaser of its *pro rata* share of the initial \$15,000,000 of Notes (the "Initial Notes") shall be subject to the following conditions precedent, all of which shall be for the benefit of the Purchasers and shall be satisfied prior to the purchase of the Initial Notes, in each case in form and substance satisfactory to the Purchasers:

- (a) execution and delivery by the Issuer and the Guarantors of this Agreement, the issuance of the Initial Notes and the issuance of all Notes to be issued in payment of the Bridge Funding Fee;
- (b) receipt of a certified copy of the constating documents and by-laws of the Issuer and each Guarantor, and of all corporate and other proceedings taken and required to be taken by the Issuer and the Guarantors to authorize, *inter alia*, (A) the execution and delivery of this Agreement and the other Transaction Documents to which it is a party and the performance of the transactions contemplated thereby and (B) the Companies' Support Agreement; (ii) a certificate of status or like certificate of the Issuer and the Guarantors; and (iii) a certificate of incumbency of the Issuer and the Guarantors;
- (c) execution and delivery of all security documents by the Issuer and the Guarantors in favour of the Collateral Agent for the benefit of itself and the Purchasers substantially in the form and substance of the security documents delivered in favour of the Senior Agent (the "Security Documents");
- (d) delivery of a completed Perfection Certificate in respect of the Issuer and the Guarantors.
- (e) (i) completion of all necessary lien and other searches, together with all registrations, filings and recordings wherever the Purchasers deem appropriate in connection with the Security, and (ii) satisfaction that there are no Liens ranking ahead of the Security for the Notes, except (A) Liens in favour of the Senior Agent securing the Senior Obligations, (B) Liens which are permitted under the Senior Indenture to rank ahead of Liens securing the Senior Obligations, (C) Liens arising by operation of law in the ordinary course of business without any contractual grant of security or (D) as have been previously disclosed in lien searches conducted by Purchasers' counsel, which are set out on Schedule G hereto (together with all other Liens which are permitted under the Senior Indenture, collectively, the "Permitted Liens");
- (f) delivery of all necessary documentation (including consents and supplements, if applicable) under the Senior Indenture, the Senior Unsecured Indenture and the

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Quadrangle Commitment to permit the issuance of the Notes, the filing and the implementation of the Plan, the granting of the Liens pursuant to the Security that are second in priority to the Liens granted in respect of the Senior Notes and all other transactions contemplated by this Agreement and the other Transaction Documents;

- (g) execution and delivery of the Companies' Support Agreement in support of the Plan and the transactions contemplated in connection therewith;
- (h) satisfaction that the Issuer and the Guarantors maintain adequate insurance coverage of such type and in such amounts and against such risks as is prudent for a business of an established reputation with financially sound and reputable insurers in coverage and scope acceptable to the Purchasers, with appropriate endorsements in favour of the Collateral Agent;
- (i) satisfaction that the Issuer and each of the Guarantors has complied with and is continuing to comply in all material respects with all applicable laws, regulations and policies and the requirements of applicable regulators in relation to its activities, to the extent that the failure to comply would have a Material Adverse Effect;
- (j) if such right is exercised by the Purchasers prior to the Initial Closing Date, the appointment of one nominee to the boards of the Issuer and/or the Guarantors;
- (k) delivery of legal opinions from relevant counsel to the Issuer and the Guarantors, including opinions confirming (i) the registration and perfection of the Security and (ii) the authorization, execution, delivery and enforceability of this Agreement and the other documents delivered in connection herewith (including the Companies' Support Agreement) by and against the Issuer and the Guarantors;
- (l) receipt by Goodmans LLP of all expressions of interest, letters of interest and other relevant documents from all parties relating to a Sale Transaction or Change of Control involving the Issuer or the Guarantors, that were received since September 1, 2012 and that are not subject to confidentiality obligations that are binding on the Issuer and/or the Guarantors which prevent their disclosure to Goodmans LLP, provided that such documents shall not be provided by Goodmans LLP to the Purchasers without the prior consent of the Issuer;
- (m) receipt of a weekly cash flow forecast for the Issuer and the Guarantors for the period from the Initial Closing Date until May 30, 2013 (the "Cash Flow Forecast");
- (n) satisfaction that, after giving effect to the purchase of the Initial Notes, the Subsequent Notes and the Final Notes, assuming satisfaction of the applicable conditions precedent set out in Article 11 hereof, the Issuer and the Guarantors shall have sufficient liquidity to fund their operations in accordance with the Cash Flow Forecast;

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- (o) satisfaction with governance procedures of the Issuer and the Guarantors;
- (p) receipt of, and satisfaction with, any engagement letters between the Issuer or any Guarantor and their financial advisors including Canaccord Genuity Corp.;
- (q) receipt of a letter from the Issuer and the Guarantors, in form acceptable to the Purchasers, acknowledging that there is not adequate protection for the holders of the Notes, the Senior Notes and the Senior Unsecured Debentures to permit any financing, including any "debtor-in-possession" financing under the CCAA (the "Adequate Protection Letter"), it being acknowledged by the Purchasers that certain debtor-in-possession financings will be permitted subject to the terms and conditions of the Adequate Protection Letter;
- (r) all fees payable by the Issuer and the Guarantors to the Purchasers under this Agreement prior to the Initial Closing Date shall have been paid in full;
- (s) all of the expenses of each of the Collateral Agent and the Purchasers incurred up to and including the Initial Closing Date in connection with the Notes, including, without limitation, reasonable and documented legal fees of counsel to the Collateral Agent and the Purchasers shall have been paid in full; and
- (t) (i) all representations and warranties contained in this Agreement and any documents delivered in connection herewith remain true and correct as of the Initial Closing Date (ii) no Default or Event of Default has occurred and is continuing or would result from the purchase of the Initial Notes, and (iii) the issuance and purchase of the Initial Notes shall not violate any applicable law, judgment or order of any court of competent jurisdiction.

11.2 Conditions Precedent to Subsequent Funding

The purchase by each Purchaser of its *pro rata* share of the subsequent \$10,000,000 of Notes (the "Subsequent Notes") shall be subject to the following conditions precedent, all of which shall be for the benefit of the Purchasers and shall be satisfied prior to the purchase of the Subsequent Notes, in each case in form and substance satisfactory to the Purchasers:

- (a) a court of competent jurisdiction shall have granted an interim order or orders in respect of the Plan under the CBCA or other comparable legislation, which shall have been previously approved by the Purchasers (the "Interim Order");
- (b) the actual cash flows of the Issuer and the Guarantors for the period from the Initial Closing Date through the Subsequent Closing Date shall not adversely vary by more than 5% from the projected cash flows contained in the Cash Flow Forecast for such period;
- (c) all of the expenses of each of the Collateral Agent and the Purchasers incurred up to and including the Subsequent Closing Date in connection with the Notes, including, without limitation, reasonable and documented legal fees of counsel to the Collateral Agent and the Purchasers shall have been paid in full; and

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- (d) (i) all representations and warranties contained in this Agreement and any documents delivered in connection herewith remain true and correct as of the Subsequent Closing Date (ii) no Default or Event of Default has occurred and is continuing or would result from the purchase of the Subsequent Notes, (iii) there shall have been no material adverse change in the property, business, financial condition or prospects of the Issuer and the Guarantors (taken as a whole) and (iv) the issuance and purchase of the Subsequent Notes shall not violate any applicable law, judgment or order of any court of competent jurisdiction, and the Purchasers shall have received a certification from an officer of the Issuer to that effect.

11.3 Conditions Precedent to Final Funding

The purchase by each Purchaser of its *pro rata* share of the final \$10,000,000 of Notes (the "Final Notes") shall be subject to the following conditions precedent, all of which shall be for the benefit of the Purchasers and shall be satisfied prior to the purchase of the Final Notes, in each case in form and substance satisfactory to the Purchasers:

- (a) a court of competent jurisdiction shall have issued an order or orders under the CBCA or other comparable legislation approving and sanctioning the Plan (the "Final Order");
- (b) the actual cash flows of the Issuer and the Guarantors for the period from the Initial Closing Date through the Final Closing Date shall not adversely vary by more than 5% from projected cash flows contained in the Cash Flow Forecast for such period;
- (c) all of the expenses of each of the Collateral Agent and the Purchasers incurred up to and including the Final Closing Date in connection with the Notes, including, without limitation, reasonable and documented legal fees of counsel to the Collateral Agent and the Purchasers shall have been paid in full; and
- (d) (i) all representations and warranties contained in this Agreement and any documents delivered in connection herewith remain true and correct as of the Final Closing Date (ii) no Default or Event of Default has occurred and is continuing or would result from the purchase of the Final Notes, (iii) there shall have been no material adverse change in the property, business, financial condition or prospects of the Issuer and the Guarantors (taken as a whole) and (iv) the issuance and purchase of the Final Notes shall not violate any applicable law, judgment or order of any court of competent jurisdiction, and the Purchasers shall have received a certification from an officer of the Issuer to that effect.

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12. REPRESENTATIONS AND WARRANTIES

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

- (a) Each of the Issuer and the Guarantors is a corporation duly incorporated, continued or amalgamated, as the case may be, and is validly existing under the laws of the jurisdiction in which it was incorporated, continued or amalgamated and each is duly qualified, licensed or registered to carry on business under the applicable law in all jurisdictions in which the nature of its assets or business makes such qualification necessary.
- (b) The execution, delivery and performance by the Issuer and each Guarantor of this Agreement:
 - (i) are within its corporate, partnership, limited partnership or similar power, as applicable;
 - (ii) have been duly authorized by all necessary corporate, partnership, limited partnership or similar action, as applicable, including all necessary consents of the holders of its equity interests, where required;
 - (iii) do not (A) contravene its articles, by-laws or other constating documents, as applicable (other than any action required to be taken or not taken by the Issuer or any Guarantor under Section 13(z) hereof which would contravene its articles, by-laws, shareholders agreements or other constating documents), (B) violate any judgment, order, notice, decree, statute, law, ordinance, rule or regulation applicable to it or any of its properties or assets, (C) conflict with or result in the breach of, or constitute a default under, or require a consent under, any Material Contract (other than such consents as have been obtained or will be obtained in connection with the Follow-on Facility and the Plan, in each case under the Senior Indenture and the Senior Unsecured Indenture, and other than any action required to be taken or not taken by the Issuer or any Guarantor under Section 13(z) hereof which would contravene the Shareholders Agreement, the Quadrangle Commitment and the Convertible Debentures) or (D) result in the creation or imposition of any lien or encumbrance upon any of its property; and
 - (iv) do not require the consent of, authorization by, approval of or notification to any Governmental Entity, other than court approval of the Plan.
- (c) This Agreement constitutes a valid and binding obligation of the Issuer and each Guarantor enforceable in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally or by general principles of equity, whether asserted in a proceeding in equity or law.

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- (d) The Issuer and each Guarantor (i) owns its respective assets with good and marketable title thereto, free and clear of all Liens, except for Permitted Liens, (ii) does not own any real property other than the real property disclosed in the Perfection Certificate.
- (e) There is no Default or Event of Default that has occurred and is continuing as of the date hereof;
- (f) All Indebtedness of the Issuer and each Guarantor as of the date hereof is disclosed in the Perfection Certificate, including without limitation Indebtedness under the Senior Indenture, the Senior Unsecured Indenture and the Quadrangle Commitment.
- (g) Except as disclosed in the Disclosure Letter and as otherwise contemplated by this Agreement and the transactions contemplated hereby, since December 1, 2012 there has not been (i) any Material Adverse Effect, (ii) any Material transaction to which the Issuer or any Guarantor is a party outside the ordinary course of business (other than as contemplated by this Agreement and the other Transaction Documents), or (iii) any Material change in the capital or outstanding Indebtedness and Liabilities of the Issuer and the Guarantors (taken as a whole) (other than as contemplated by this Agreement and the other Transaction Documents).
- (h) None of the Issuer or any Guarantor has any Material Liabilities except (i) Liabilities which are reflected and properly reserved against in the Financial Statements, (ii) Liabilities incurred in the ordinary course of business, having regard to the current financial condition of the Issuer and the Guarantors, as reflected in the Cash Flow Forecast, (iii) current Liabilities arising in the ordinary course under the Contracts to which any of the Issuer and the Guarantors is a party (other than obligations which are required to be reflected on a balance sheet prepared in accordance with GAAP).
- (i) As of the date of this Agreement, the authorized capital of Holdings consists of (i) an unlimited number of common shares, of which 4,995,211 common shares are issued and outstanding, of which, 3,330,141 common shares are held by Data & Audio-Visual Enterprises Investments Inc. and 1,665,070 common shares are held by Quadrangle, and (ii) an unlimited number of Class B shares, of which 20,204,790 Class B shares are issued and outstanding, of which all Class B shares are held by Quadrangle. Holdings has no other capital stock authorized or, as of the date of this Agreement, issued and outstanding. All issued and outstanding Convertible Securities of Holdings, or existing rights to have such Convertible Securities of Holdings issued, as of the date hereof, are disclosed in the Perfection Certificate. All voting rights in respect of Holdings are vested in the holders of the common shares of Holdings. Class B shares are convertible at the option of the holder on a one-for-one basis into common shares.
- (j) As of the date of this Agreement, the authorized capital of Wireless consists of (i) an unlimited number of common shares, of which 43,974,221 common shares are

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issued and outstanding, all of which are held by Holdings, and (ii) an unlimited number of Class B shares. Wireless has no other capital stock authorized or, as of the date of this Agreement, issued and outstanding. All issued and outstanding Convertible Securities of Wireless, or existing rights to have such Convertible Securities of Wireless issued, as of the date hereof, are disclosed in the Perfection Certificate. All voting rights in respect of Wireless are vested in the holders of the common shares of Wireless. Class B shares are convertible at the option of the holder on a one-for-one basis into common shares.

- (k) As of the date of this Agreement, the authorized capital of Leasing consists of (i) an unlimited number of common shares, of which 1 common share is issued and outstanding, which is held by Wireless. Leasing has no other capital stock authorized or, as of the date of this Agreement, issued and outstanding. All issued and outstanding Convertible Securities of Leasing, or existing rights to have such Convertible Securities of Leasing issued, as of the date hereof, are disclosed in the Perfection Certificate. All voting rights in respect of Leasing are vested in the holders of the common shares of Leasing.
- (l) The estimated quantum of all bonus payments paid and expected to be paid to the senior executives of the Issuer and each Guarantor for the current fiscal year are set out in the Disclosure Letter.
- (m) Since December 1, 2012, except as otherwise contemplated by this Agreement or set forth in the Disclosure Letter, the Issuer and each Guarantor has conducted its business only in the ordinary course consistent with past practice, to the extent possible given the current financial condition of the Issuer and the Guarantors, and there has not been any resignation or termination of any director, senior officer or senior manager, or any increase in the rate of compensation payable or to become payable by any Issuer or any Guarantor to any director, senior officer or senior manager of the Issuer or any Guarantor (other than standard increases in connection with general, regularly-scheduled reviews consistent with past practice in respect of employees other than the top three highest paid employees of the Issuer and any Guarantor), including the making of any loan to, or the payment, grant or accrual of any bonus payment to any such Person.
- (n) There have been no changes to the compensation or severance entitlements or other benefits payable to directors, senior officers or senior managers (including by way of a "KERP") from their compensation and severance entitlements as disclosed in the Disclosure Letter and none of the Issuer or any Guarantor have agreed to any, or become obligated to pay any, bonus payments to the directors, senior officers or senior managers except in connection with existing benefit, incentive or compensation plans or employment contracts. The Issuer and the Guarantors have disclosed in the Disclosure Letter all benefit, incentive or compensation plans applicable to the senior officers and senior managers of the Issuer and each Guarantor, copies of which shall be made available to each Purchaser upon request.

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- (o) The Issuer and the Guarantors have disclosed in the Disclosure Letter all employment agreements for the senior officers and senior managers of the Issuer and each Guarantor and have provided copies of all written employment agreements for the senior officers and senior managers of each of them, which are in full force and effect as of the date hereof, and there have been no extension, supplements or amendments thereto; there are no other written employment agreements for senior officers or senior managers to the Issuer and each Guarantor earning \$150,000 or more per annum, including all bonuses and other cash compensation.
- (p) Copies of all retainers for professionals and advisors engaged by the Issuer or Guarantors ("Advisor Retainers"), and all transaction, success, performance or change of control payments payable thereunder or in connection therewith, and all policies of directors' and officers' insurance maintained by the Issuer or Guarantors have been disclosed in the Disclosure Letter and have been included in the Cash Flow Forecast, and there are no directors trusts that have been established by the Issuer or any Guarantor.
- (q) All payments to shareholders, directors, senior executives and their related parties, whether under contract or otherwise, including bonus payments, transaction payments, change of control payments, management fees, consulting or advisory fees or amounts payable in respect of reimbursement, in each case occurring between September 30, 2012 and the date of this Agreement (all such payments being "Affiliate Payments") have been disclosed in the Disclosure Letter and have been included in the Cash Flow Forecast; and
- (r) Other than as disclosed in the Disclosure Letter, there is not now pending or, to the knowledge of any of the senior officers or directors of the Issuer or any Guarantor, threatened against the Issuer or any Guarantor, nor has the Issuer or any Guarantor received notice in respect of, any claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal Governmental Entity or regulatory body, which would be reasonably likely to have, individually or in the aggregate, a Material Adverse Effect.
- (s) A complete and accurate list of all Material Contracts and amendments thereto, including without limitation, the Spectrum Licenses, is set forth on Schedule H hereto and have been disclosed in the Disclosure Letter, and all such agreements are in full force and effect, except as would not reasonably be expected to result in a Material Adverse Effect. Each of the Issuer and the Guarantors shall, promptly upon request of any Purchaser, provide to such Purchaser copies of all Material Contracts requested by it. All of the Material Contracts are valid, binding and enforceable in accordance with their terms against the Issuer or Guarantor party thereto, except (i) as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the rights of creditors or (ii) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity). As of the date of this Agreement, except as disclosed in the Disclosure Letter, there is no existing (or threatened in writing) default or dispute with respect to any of the

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Material Contracts that would reasonably be expected to result in a Material Adverse Effect.

- (t) Each of the Issuer and the Guarantors has conducted its business in compliance with all Laws and none of the Issuer or any Guarantor has received any notice to the effect that, or has otherwise been advised that, it is not in compliance with such laws, other than any such non-compliance as would not reasonably be expected to result in a Material Adverse Effect.
- (u) Except as would not have a Material Adverse Effect:
 - (i) The Issuer and the Guarantors, as applicable, are in possession of all, grants, authorizations, licenses (including the Spectrum Licenses), permits, easements, variances, exceptions, consents, certificates, approvals, registrations and orders of any governmental or regulatory authority, including, without limitation, Industry Canada, the Canadian Radio-television Telecommunications Commission (the "CRTC") and similar authorities in Canada and other jurisdictions necessary for the Issuer or any Guarantor to carry on their business as it is now being conducted (the "Company Permits"), the Company Permits are valid and in good standing and no suspension or cancellation of any of the Company Permits is pending or, to the knowledge of the Issuer or any Guarantor, threatened, except where the failure to have or the suspension or cancellation of, any of the Company Permits would not, individually or in the aggregate, have a Material Adverse Effect; and
 - (ii) to the knowledge of the Issuer and the Guarantors, none of them has received any written notice that Industry Canada, the CRTC or any other governmental or regulatory authority (including, without limitation, Governmental Entities and other regulatory agencies outside of Canada) has commenced, or overtly threatened to initiate, any action to withdraw its approval for, revoke, request the recall of, or otherwise impair restrict or vary any Company Permits, or to restrain, impede or prohibit the execution, delivery and performance by the Issuer and each Guarantor of this Agreement or require or purport to require a variation of this Agreement.
- (v) The Issuer and the Guarantors maintain adequate insurance coverage of such type and in such amounts and against such risks as is prudent for a business of an established reputation with financially sound and reputable insurers in coverage and scope as is prudent for such a business, with appropriate endorsements in favour of the Collateral Agent.
- (w) The Security Documents create a valid and continuing perfected Lien on the personal property described therein (collectively, the "Collateral") in favour of the Collateral Agent for the benefit of itself and the Purchasers having the priority set forth herein, subject only to Permitted Liens. There are no other Liens on the Collateral other than Permitted Liens;

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- (x) Neither the Financial Statements delivered to the Purchasers or their Advisors from time to time nor any other written statement or information (other than projections, which are subject to following sentence) furnished by or on behalf of or at the direction of the Issuer or any Guarantor to the Purchasers or their Advisors in connection with the negotiation, consummation or administration of this Agreement contain, as of the time such statements were so furnished, any untrue statement of a material fact or an omission of a material fact as of such time, which material fact is necessary to make the statements contained therein not misleading. All such statements, taken as a whole, together with this Agreement, all of the other Transaction Documents and all other relevant documents do not contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained herein or therein not misleading. All financial projections, including the Cash Flow Forecast, furnished or made available by the Issuer and the Guarantors to the Purchasers and their Advisors have been prepared in good faith, on the basis of all known facts and using reasonable assumptions and the Issuer and the Guarantors believe such projections to be fair and reasonable.
- (y) All written information furnished by or on behalf of the Issuer and the Guarantors to the Purchasers or their Advisors for the purposes of, or in connection with, this Agreement, the other Transaction Documents or any other relevant document or any other transaction contemplated thereby, including for greater certainty information contained in the Perfection Certificate, the Disclosure Letter and the Companies' Support Agreement, is true and accurate in all respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances.
- (z) Other than pursuant to the Companies' Support Agreement and as disclosed in the Disclosure Letter, there are no agreements between any of the Issuer and/or the Guarantors and any other holder of debt or Equity Securities of the Issuer or any Guarantor with respect to any restructuring, refinancing or recapitalization matters.
- (aa) On each Closing Date, all of the representations and warranties contained in the Senior Indenture are true and correct as if such representations and warranties were set forth herein.

13. COVENANTS

Each of the Issuer and the Guarantors covenants and agrees to comply with the following covenants:

- (a) The Issuer shall duly and punctually pay all principal, interest, fees and other amounts on the Notes and contemplated by this Agreement when due and payable.

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- (b) The Issuer and the Guarantors shall use the proceeds of the Notes only in accordance with Section 3.7.
- (c) As soon as practicable following the Initial Closing Date, and in any event prior to February 19, 2013, the Issuer and/or the Guarantors shall have, in consultation with and with the prior approval of the Purchasers, completed all corporate action necessary to commence proceedings under the CBCA in order to implement the Plan.
- (d) As soon as practicable following the Initial Closing Date, and in any event prior to February 22, 2013, shall have filed all orders, motions or applications and other documents, and shall have taken all steps reasonably necessary and desirable to initiate proceedings with a court of competent jurisdiction to implement the Plan under the CBCA, all of which orders, motions, applications and other documents shall have been approved in advance by the Purchasers.
- (e) The Issuer and the Guarantors shall maintain at all times adequate insurance coverage of such kind and in such amounts and against such risks as is prudent for a business of an established reputation with financially sound and reputable insurers in coverage and scope acceptable to the Purchasers, with appropriate endorsements in favour of the Collateral Agent.
- (f) The Issuer shall deliver to each of the Purchasers and/or such representatives as may be reasonably designated by the Purchasers:
 - (i) on the fourth Business Day of every second week, a report as to the Issuer's and each Guarantor's actual cash flows for the immediately preceding two week period, accompanied by a variance analysis explaining how and why actual results for such immediately preceding two week period varied from the applicable week in the Cash Flow Forecast;
 - (ii) on the first Business Day of each week, updates and plans from the Issuer's financial advisors regarding any Sale Transaction or Change of Control process;
 - (iii) concurrently with the delivery thereof pursuant to the terms of the Senior Indenture, Senior Unsecured Indenture or Quadrangle Commitment, copies of any information delivered to the holders of the notes or debentures issued thereunder;
 - (iv) notice forthwith upon the Issuer or any Guarantor determining that there will be a material change from the Cash Flow Forecast, or of any other material developments with respect to the business and affairs of the Issuer or any Guarantor;
 - (v) notice forthwith upon the Issuer or any Guarantor receiving notice from any creditor, landlord or other third party delivering a notice of default,

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demand, acceleration or enforcement in respect of any material obligation of the Issuer or any Guarantor;

- (vi) notice forthwith and copies to Goodmans LLP of, any discussion papers, term sheets, letters of intent, commitment letters, offers or agreements entered into by the Issuer or any Guarantor after the date hereof, relating to (i) a Sale Transaction or a Change of Control, provided that such documents shall not be provided by Goodmans LLP to the Purchasers without the prior consent of the Issuer;
 - (vii) notice forthwith of any intention to seek any financing, refinancing or any "debtor-in-possession" financing under the CCAA;
 - (viii) notice forthwith of any event or occurrence that, with notice or the passage of time or both, would be an Event of Default hereunder (a "Default"); and
 - (ix) such other information as may be requested by the Purchasers or their Advisors from time to time acting reasonably.
- (g) The Purchasers shall have the right to engage at any time a financial advisor to assist them in relation to the Notes and any Sale Transaction or Change of Control, and all reasonable and documented fees of such advisor shall be payable by the Issuer.
- (h) The Purchasers shall be (i) entitled to have one nominee appointed to the boards of the Issuer and/or Guarantors and/or (ii) provided with prior notice of, and shall be entitled to have an observer attend all board and committee meetings of the Issuer and the Guarantors. Any such nominee shall have all rights that existing board members have. Any such observer shall have all information disclosure rights that existing board members have.
- (i) Neither the Issuer nor the Guarantors shall be entitled to make any Distribution or Affiliate Payment (other than a Distribution or Affiliate Payment that is contemplated by the Cash Flow Forecast and, in the case of any Affiliate Payment made to any Shareholder and/or its affiliates, that is contemplated by the Cash Flow Forecast and approved in writing by the Purchasers which, for certainty, will not be approved by the Purchasers to the extent it provides for the payment of ongoing fees to any Shareholder and/or its affiliates).
- (j) Neither the Issuer nor the Guarantors shall make any capital expenditures except to the extent such expenditures are specifically listed in the Cash Flow Forecast.
- (k) Neither the Issuer nor the Guarantors shall amalgamate, consolidate with or merge into or sell all or substantially all of their assets to another entity, or change the nature of their business or their corporate or capital structure (except as contemplated by Plan) or enter into any agreement committing to such actions, in each case without the prior written consent of the Required Purchasers.

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- (l) Neither the Issuer nor the Guarantors shall create, incur or Guarantee any Indebtedness for borrowed money other than Indebtedness and Guarantees existing on the date hereof that have been disclosed in writing to the Purchasers and Indebtedness contemplated by this Agreement.
- (m) Neither the Issuer nor the Guarantors shall make any new Investments or acquisitions of any kind, direct or indirect.
- (n) Neither the Issuer nor the Guarantors shall create or incur any Liens other than Permitted Liens.
- (o) The Issuer shall pay the reasonable and documented fees of the Advisors and any local counsel, and one (1) financial advisor for the Purchasers, in each case within five (5) Business Days of the receipt of any invoice from any such party.
- (p) The Issuer and the Guarantors shall not participate in any material discussions with any party (other than their legal and financial advisors) with respect to any sale or material transaction, refinancing, or any alternative thereto, in each case (upon conferring with their financial advisor) without providing reasonable notice to the Purchasers and Goodmans LLP, and an opportunity for a representative of Goodmans LLP or the financial advisor to the Purchasers to participate in such discussions.
- (q) The Issuer and the Guarantors shall not, directly or indirectly through any representative: (i) accept, approve, endorse or propose publicly to accept, approve, endorse or recommend any transaction that is an alternative to the Refinancing and Recapitalization (as such term is defined in the Companies' Support Agreement) (an "Other Transaction"); or (ii) enter into, or publicly propose to enter into, any agreement in respect of any Other Transaction, except in accordance with the Companies' Support Agreement.
- (r) The Issuer and the Guarantors shall promptly (and in any event within 24 hours of receipt by any of them) notify the Purchasers and their Advisors, at first orally and thereafter in writing, of any proposal in respect of any Other Transaction, in each case received after the date hereof, of which it or any of its representatives are or become aware, or any amendments to such proposal in respect of any Other Transaction, any request for material discussions or negotiations, or any request for non-public information relating to the Issuer or any Guarantor in connection with such Other Transaction or for access to the books or records of the Issuer or any Guarantor by any person that informs the Issuer or any Guarantor that it is considering making, or has made, a proposal with respect to any Other Transaction and any amendment thereto; and the Issuer shall promptly provide to the Purchasers and Goodmans LLP a description of the material terms and conditions of any such proposed Other Transaction or request. The Issuer and the Guarantors shall keep the Purchasers and Goodmans LLP informed of any material change to the material terms of any such proposed Other Transaction.

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- (s) Neither the Issuer nor the Guarantors shall increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management (including by way of a "KERP"), or pay any bonuses whatsoever, other than as required by law or pursuant to the terms of existing benefit plans or employment contracts (whether written or unwritten) as disclosed to the Purchasers and then only to the extent specifically listed in the Cash Flow Forecast.
- (t) Neither the Issuer nor the Guarantors shall be entitled to pay any professional or advisory fees or management fees unless such fees are provided for in the Advisor Retainers and are specifically listed in the Cash Flow Forecast and, in the case of any professional or advisory fees or management fees paid to any Shareholder or its advisors, unless such fees are also approved in writing by the Purchasers.
- (u) The costs of completing the implementation of the Plan, including any material fees anticipated to be payable in connection therewith (to professionals, employees, officers, directors, third parties or otherwise) and the anticipated fees of the professional advisors to the Issuer and the Guarantors (including, but not limited to, their legal advisors, auditors, and the board of directors' counsel and financial advisors and including Advisor Retainers) for all matters being addressed by such professionals, shall be reflected in the Cash Flow Forecast by stating the current best estimate and the Issuer and the Guarantors shall update the Cash Flow Forecast on a monthly basis to reflect any changes in their current best estimate of the costs of implementing the Plan, and they shall report on the actual amount of such professional fees for the preceding month.
- (v) The Issuer and the Guarantors shall operate their businesses in the ordinary course of business, having regard to the current financial condition of the Issuer and the Guarantors, and, in any event, neither the Issuer nor the Guarantors shall make a public announcement in respect of, enter into any agreement or letter of intent with respect to, or attempt to consummate, any transaction or agreement outside the ordinary course of business, if not approved in advance by the Required Purchasers.
- (w) Following a reasonable advance request by the Purchasers or their advisors, the Issuer and each Guarantor, as applicable, shall, to the extent permitted by law and the terms of any contractual confidentiality obligations, and subject to and in accordance with the terms of the Noteholder Confidentiality Agreement:
 - (i) provide the Purchasers and/or their advisors with reasonable access to its books and records for use in connection with the transactions contemplated by this Agreement; and
 - (ii) make its officers and legal and financial advisors available on a reasonable basis for any discussions with the Purchasers and/or their advisors.

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- (x) Any changes to composition (including addition, removal or replacement of directors) of the board of directors of the Issuer or any Guarantor shall be acceptable to the Purchasers.
- (y) None of the Issuer or any Guarantor shall enter into, or permit any amendment to, any shareholders agreement in respect of it.
- (z) Without the prior written consent of the Purchasers, Holdings shall not, to the extent it is required to do so, consent to, or take any steps in furtherance of the exercise of any conversion right under the Convertible Debentures or any Equity Securities or Convertible Securities issued by it.
- (aa) Holdings shall immediately notify the Purchasers and their Advisors, at first orally and thereafter in writing, as soon as it has become aware of any intention of any of holder of any Equity Securities or Convertible Securities issued by Holdings to exercise any conversion right under such Equity Securities or Convertible Securities issued by it, other than in respect of the notice of conversion issued by Quadrangle on January 31, 2013 which has been previously disclosed.
- (bb) Without the prior written consent of the Purchasers, Holdings shall not consent to, or prescribe any conditions precedent to, any transfer of the Convertible Debentures by Quadrangle.
- (cc) Immediately upon receipt thereof, Holdings shall notify the Purchasers and Goodmans LLP, at first orally and thereafter in writing, of any notice it has received from Quadrangle notifying Holdings of Quadrangle's intent to transfer the Convertible Debentures.
- (dd) Neither the Issuer nor the Guarantors shall transfer, lease, license or otherwise dispose of all or any part of its property, assets or undertaking aggregating over \$500,000, except pursuant to a Liquidity Event which has been approved by the Required Purchasers.
- (ee) Neither the Issuer nor the Guarantors shall enter into, extend, renew, waive or otherwise modify in any material respect the terms of any transaction with an Affiliate, other than the transaction disclosed on Schedule B hereto or the extension or renewal of existing operational arrangements on substantially the same terms if such extensions or renewals are in the best interests of the Issuer and the Guarantors.

14. EVENTS OF DEFAULT

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

- (a) the failure to pay any principal amount outstanding under the Notes when the same shall become due and payable hereunder;

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- (b) the failure to pay any interest on the Notes or any fees or other amounts payable by the Issuer or any Guarantor pursuant to this Agreement or any other Transaction Document within 2 Business Days after the same shall become due and payable hereunder or thereunder as the case may be;
- (c) the failure by the Issuer or any Guarantor to pay the reasonable and documented fees to the Purchasers' Advisors within 5 Business Days of the receipt of any invoice from any such party;
- (d) the failure by the Issuer or any Guarantor to perform or comply with any term, condition, covenant or obligation contained herein (other than the items set out in paragraphs (a), (b) and (c) above and (f) below), in the Notes or in any other Transaction Document or any other document delivered pursuant to the terms hereof or thereof or in connection herewith or therewith on their part to be performed or complied with and, to the extent capable of being remedied, such failure remains unremedied for 5 Business Days;
- (e) the termination of any Support Agreement other than, in the case of the Companies' Support Agreement, pursuant to Section 10(j) thereof;
- (f) the failure by the Issuer to comply with Section 13(d) hereof;
- (g) if any representation, warranty or other statement of the Issuer or any Guarantor made or deemed to be made in this Agreement, any other Transaction Document or in any other document delivered pursuant to the terms thereof or in connection therewith shall prove untrue in any material respect as of the date made;
- (h) the failure by the Issuer or any Guarantor to pay any amounts due under or perform or comply with any term, condition, covenant or obligation contained in the Senior Indenture, as amended by the Senior Supplemental Indenture, the Senior Unsecured Indenture, as amended by the Unsecured Supplemental Indenture, or the Quadrangle Commitment;
- (i) the occurrence of a default or an event of default under any Indebtedness for borrowed money of the Issuer or any Guarantor, including for greater certainty under the Senior Indenture, as amended by the Senior Supplemental Indenture, the Senior Unsecured Indenture, as amended by the Unsecured Supplemental Indenture, or the Quadrangle Commitment;
- (j) a default under, revocation or cancellation of, any Material Contract which has or could reasonably be expected to result in a Material Adverse Effect (other than a default under, revocation or cancellation of, the Shareholders Agreement, the Quadrangle Commitment or the Convertible Debentures resulting from any action required to be taken or not taken by the Issuer or any Guarantor under Section 13(z) hereof);
- (k) the existence of an adverse variance of actual cash flow from the Cash Flow Forecast by an amount exceeding 10% in respect of any four week period, or the

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occurrence of any other material adverse change with respect to the business and affairs of the Issuer or any Guarantor;

- (l) any change to the composition (including addition, removal or replacement of directors) of the board of directors of the Issuer or any Guarantor that is not acceptable to the Purchasers;
- (m) any change, other than through the exercise of conversion rights under the Shareholders Agreement, the Quadrangle Commitment, the Convertible Debentures or other Convertible Securities without the consent of the Issuer or any Guarantor, to (i) the legal or beneficial ownership (whether direct or indirect) of the Equity Securities issued by the Issuer or any Guarantor, or any Convertible Securities of the Issuer or any Guarantor, or rights thereto or (ii) the voting control of the Issuer or any Guarantor, from that disclosed in Sections 12(i), 12(j) and 12(k) hereof;
- (n) the cessation (or threat of cessation) by the Issuer or any Guarantor to carry on business in the ordinary course, having regard to the current financial condition of the Issuer and the Guarantors;
- (o) the denial or repudiation by the Issuer or any Guarantor of the legality, validity, binding nature or enforceability of this Agreement, the other Transaction Documents or any other document or certificate delivered pursuant to the terms hereof or thereof;
- (p) the cessation of any of the Security Documents to constitute, in whole or in part, a Lien on the Collateral in the priority contemplated by this Agreement;
- (q) the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$5,000,000 against the Issuer or any Guarantor or the Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy;
- (r) the commencement by the Issuer or any Guarantor of any action, application, petition, suit or other proceeding under any bankruptcy, arrangement, reorganization, dissolution, liquidation, insolvency, winding-up or similar law of any jurisdiction now or hereafter in effect, for the relief from or otherwise affecting creditors of such entity, including without limitation, under the BIA (including the filing of a notice of intention to make a proposal), CCAA, *Winding-up and Restructuring Act* (Canada), the CBCA or any similar law of another jurisdiction, other than in connection with the Plan or a Liquidity Event which has been approved by the Required Purchasers;
- (s) the appointment of any receiver, receiver-manager, interim receiver, monitor, liquidator, assignee, custodian, trustee, sequestrator or other similar entity in respect of the Issuer or any Guarantor (or any of their subsidiaries) or all or any part of their respective property, assets or undertaking; or

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- (t) the act of the Issuer or any Guarantor (i) making a general assignment for the benefit of its creditors, including without limitation, any assignment made pursuant to the BIA, (ii) acknowledging its insolvency or is declared or becomes bankrupt or insolvent, (iii) failing to meet its liabilities generally as they become due, or (iv) committing an act of bankruptcy under the BIA or any similar law of any jurisdiction.

15. REMEDIES

Following the occurrence of an Event of Default, without limiting the remedies available under the Security Documents or hereunder, the Purchasers and/or the Collateral Agent may:

- (a) on demand, accelerate all payments due by the Issuer hereunder, and set off amounts owing by the Purchasers to the Issuer against amounts owing by the Issuer to the Purchasers;
- (b) apply to a court (i) for the appointment of an interim receiver or a receiver and manager of the undertaking, property and assets of the Issuer or any Guarantor, (ii) for the appointment of a trustee in bankruptcy of the Issuer or any Guarantor, or (iii) to seek other relief; or
- (c) without limiting the foregoing, the Collateral Agent and the Purchasers shall have the power and rights of a secured party under section 17 and Part V of the *Personal Property Security Act* (Ontario).

16. GUARANTEE

16.1 Subject to this Article 16, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Purchaser and its successors and assigns, irrespective of the validity and enforceability of this Agreement, the Notes or the obligations of the Issuer hereunder or thereunder, that:

- (a) the principal of, premium, if any, and interest on, the Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the Notes, if any, if lawful, and all other obligations of the Issuer to the Purchasers or the Collateral Agent under this Agreement, the Notes and any other Transaction Document will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and
- (b) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. The liability of each Guarantor shall bear interest from the date any such amount so guaranteed was due at the rate or rates of interest then applicable

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to such obligations or amount under and calculated in the manner provided in this Agreement.

Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

- 16.2 The Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of (i) any bankruptcy or insolvency proceeding with respect to the Issuer or any of its Affiliates or any other Person; (ii) any limitation, discharge, or cessation of the liability of the Issuer or any other Person for any obligations under this Agreement, the Notes or any other Transaction Document due to any statute, regulation or rule of law, or any invalidity or unenforceability in whole or in part of any of obligations thereunder; (iii) any sale, lease, transfer or other disposition of any or all of the assets of the Issuer, any of its Affiliates or other Person, including any sale of any interest in the Issuer; (iv) any claim, defence, counterclaim or setoff, other than that of prior performance, that the Issuer, any of its Affiliates, or any other Person may have or assert, including any defence of incapacity or lack of capacity to execute or deliver this Agreement or any other Transaction Document; (v) the Purchasers' vote, claim, distribution, election, acceptance, action or inaction in any bankruptcy or insolvency proceeding related to the obligations guaranteed by this Guarantee; (vi) any change in the name, objects, Equity Securities or constitution of the Issuer or any of its Affiliates, (vii) any waiver, release, extension, renewal, settlement, surrender, alteration or compromise of any of this Agreement, the Notes, or any of the Collateral, now or hereafter acquired by the Issuer in which a security interest shall exist in favour of any of the Collateral Agent or the Purchasers to secure the obligations guaranteed by this Guarantee, whether by operation of law or otherwise; (viii) the Collateral Agent's or any Purchaser's exercise or non-exercise of any power, right or remedy with respect to any of the Collateral, including the Purchasers' compromise, release, settlement or waiver with or of any of the Issuer or any other Person; (ix) any impairment or invalidity of any of the Collateral or any failure to perfect any of the Collateral Agent's or any Purchaser's security interests thereon or therein; and (x) any other Guarantee, whether by any Affiliate of the Issuer or any other Person, of all or any part of the obligations guaranteed by this Guarantee or any other Indebtedness, obligations or Liabilities of Issuer to the Purchasers. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever and covenant that this Guarantee will not be discharged except by complete performance of the obligations contained in the Notes and this Agreement.
- 16.3 The Collateral Agent and the Purchasers shall not be bound to exhaust their recourse against the Issuer or any other Person being entitled to payment under this Guarantee and each Guarantor renounces all benefits of discussion and division.
- 16.4 If any Purchaser or the Collateral Agent is required by any court or otherwise to return to the Issuer, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Issuer or the Guarantors, any amount paid by either to the Collateral Agent or such Purchaser, this Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

- 16.5 Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Purchasers in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Purchasers and the Collateral Agent, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided herein for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided herein, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Guarantee. The Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Purchasers under this Guarantee.
- 16.6 Until all of the obligations guaranteed under this Guarantee have been paid in full, each Guarantor irrevocably waives any rights which it may have at any time by reason of the performance of any of its obligations under this Guarantee (i) to be indemnified by the Issuer, (ii) to claim contribution from any other Guarantor of the debts, liabilities or obligations of the Issuer, or (iii) to take the benefit (in whole or in part whether by way of subrogation or otherwise) of any rights of the Collateral Agent or the Purchasers under this Agreement, the Notes or any other Transaction Document.
- 16.7 Each Guarantor, and by its acceptance of Notes, each Purchaser, hereby confirms that it is the intention of all such parties that the Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of the BIA, the CCAA, the *Winding-up and Restructuring Act (Canada)* or any similar federal or provincial law to the extent applicable to any Guarantee. To effectuate the foregoing intention, the Collateral Agent, the Purchasers and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 16, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent transfer or conveyance.
- 16.8 The Guarantors hereby expressly and irrevocably subordinate to the payment of the obligations of the Issuer hereunder and under the Notes, any and all rights at law or in equity to reimbursement, exoneration, contribution, indemnification or set-off and any and all defences available to a surety, guarantor or accommodation co-obligor until all of the obligations of the Issuer hereunder and under the Notes are indefeasibly paid in full in cash and this Agreement has been terminated. The Guarantors further agree to waive any rights of subrogation arising at law or in equity.
- 16.9 This Guarantee is a continuing Guarantee, extending to all present and future obligations guaranteed hereby, and applying to and securing the ultimate balance of the amounts guaranteed hereby due or remaining due to the Collateral Agent and the Purchasers. This Guarantee shall be binding as a continuing obligation of each Guarantor until the Purchasers release such Guarantor in accordance with the terms of this Agreement. This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any

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time any payment of any of the amounts guaranteed hereby is rescinded or must otherwise be returned by the Collateral Agent or the Purchasers upon the insolvency, bankruptcy, or reorganization of the Issuer, all as though such payment has not been made.

17. PURCHASER REPRESENTATIONS AND WARRANTIES

- 17.1 Each Purchaser has been advised that the Issuer is not a reporting issuer, or equivalent, under the Securities Act of 1933, as amended (the "Securities Act"), or any state or provincial securities laws and, therefore, the Notes will be subject to resale restrictions. More specifically, each Purchaser has been advised that the Notes have not been registered under the Securities Act or any state or provincial securities laws and, therefore, cannot be resold unless they are registered under the Securities Act and applicable state or provincial securities laws or unless an exemption from prospectus and registration requirements under such securities legislation is available. Such Purchaser is aware that the Issuer is under no obligation to effect any such registration or qualification with respect to the Notes or to file for or comply with any exemption from registration or prospectus requirements. Such Purchaser has not been formed solely for the purpose of making this investment and is purchasing the Notes to be acquired by such Purchaser hereunder as principal for its own account and for investment, not as a nominee or agent, and not with a view to, or for resale in connection with, the distribution thereof, and such Purchaser has no present intention of selling, granting any participation in, or otherwise distributing the same. Such Purchaser has such knowledge and experience in financial and business matters that such Purchaser is capable of evaluating the merits and risks of such investment, is able to incur a complete loss of such investment without impairing such Purchaser's financial condition and is able to bear the economic risk of such investment for an indefinite period of time. If the sale of the Notes to such Investor is subject to the requirements of the Securities Act, such Purchaser is an accredited investor as such term is defined in Rule 501 of Regulation D under the Securities Act and shall upon reasonable request by the Issuer, provide the Issuer with a "U.S. Accredited Investor Questionnaire" in a form acceptable to the Issuer, and shall submit to the Issuer such further assurances of such status as may be reasonably requested by the Issuer. If the sale of the Notes to such Purchaser is subject to the requirements of any of the provinces or territories of Canada, such Purchaser is an accredited investor as such term is defined in National Instrument 45-106 and shall provide the Issuer upon reasonable request by the Issuer with an "Accredited Investor Status Certificate" or a "Qualified Institutional Buyer" certification in a form acceptable to the Issuer, and shall submit to the Issuer such further assurances of such status as may be reasonably requested by the Issuer. If such Purchaser is resident of a jurisdiction other than the United States or Canada, such Purchaser is purchasing the Notes pursuant to exemptions from the prospectus and registration requirements under the applicable securities laws of such Purchaser's local jurisdiction or such Purchaser is otherwise permitted to purchase the Notes under the applicable securities laws of its local jurisdiction without the need to rely on any exemption and such Purchaser confirms that the laws of its local jurisdiction do not require the Issuer to make any filings or seek any approvals of any nature whatsoever from any governmental authority of any kind whatsoever in connection with the sale or resale of the Notes.
- 17.2 Each Purchaser understands and acknowledges and agrees that the Notes are subject to resale restrictions under applicable securities legislation. Such Purchaser agrees not to resell and agrees to cause any purchaser of Notes not to resell the Notes for such period as is prescribed by applicable securities legislation and to file all required reports of the

resale of the Notes as may be required by applicable securities legislation within the time periods prescribed.

17.3 Each Purchaser acknowledges that the Notes will include the following legends:

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) [INSERT THE DISTRIBUTION DATE], AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY"

"THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY STATE SECURITIES LAW AND MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE ISSUER, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT, (C) WITHIN THE UNITED STATES IN COMPLIANCE WITH (I) RULE 144 UNDER THE ACT, OR (II) RULE 144A UNDER THE ACT, AND IN EACH CASE IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE ACT OR ANY APPLICABLE STATE SECURITIES LAWS, AND THE HOLDER HAS, PRIOR TO SUCH SALE, FURNISHED TO THE ISSUER AN OPINION OF COUNSEL SATISFACTORY TO THE ISSUER."

"DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA. AT ANY TIME THAT THE ISSUER IS A "FOREIGN ISSUER" (AS DEFINED IN RULE 902 UNDER THE ACT), A NEW CERTIFICATE, BEARING NO LEGEND, THE DELIVERY OF WHICH WILL CONSTITUTE "GOOD DELIVERY" MAY BE OBTAINED FROM THE REGISTRAR AND TRANSFER AGENT OF THE ISSUER UPON DELIVERY OF THIS CERTIFICATE AND A DULY EXECUTED DECLARATION, IN A FORM SATISFACTORY TO THE TRANSFER AGENT AND THE ISSUER, TO THE EFFECT THAT THE SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT AND, IF REQUESTED BY THE ISSUER OR ITS TRANSFER AGENT, AN OPINION OF COUNSEL OF RECOGNIZED STANDING, EACH IN A FORM SATISFACTORY TO THE TRANSFER AGENT OF THE ISSUER AND THE ISSUER, TO THE EFFECT THAT SUCH SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT."

- 17.4 Each Purchaser acknowledges that it has not received, or been provided with a prospectus or offering memorandum, within the meaning of applicable securities laws, or any other sales or advertising literature in connection with the purchase of the Notes, and such Purchaser's decision to subscribe for the Notes was not based upon, and such Purchaser has not relied upon any written representations as to facts made by or on behalf of the Issuer, except as set forth in the Transaction Documents.
- 17.5 The Purchasers are not purchasing the Notes as a result of any form of directed selling efforts (as such term is defined in Regulation S) or general solicitation or general advertising (as such terms are used under Rule 502(c) of Regulation D), and the sale of the Notes was not accompanied by any advertisement in printed media of general and regular paid circulation including printed public media, articles, notices or other communications published in any newspaper, magazine or similar media or broadcast over radio, television or telecommunications, including electronic display and the Internet or any seminar or meeting whose attendees have been invited by general solicitation or general advertising.
- 17.6 Each Purchaser was offered the Notes and is resident in the jurisdiction indicated in Schedule C hereto, which address is such Purchaser's residence or principal place of business, and such address was not obtained or used solely for the purpose of acquiring the Notes.
- 17.7 The funds representing the aggregate purchase price of the Notes which will be advanced by each Purchaser to the Issuer will not represent proceeds of crime for the purpose of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) (the "PCMLTF Act") and each Purchaser acknowledges that the Issuer may in the future be required by law to disclose such Purchaser's name and other information relating to this Agreement and such Purchaser's subscription hereunder, on a confidential basis, pursuant to the PCMLTF Act; to the best of such Purchaser's knowledge, none of the subscription funds to be provided hereunder (i) have been or will be obtained or derived, directly or indirectly, from or related to any activity that is deemed illegal under the laws of Canada or the United States or any other jurisdiction, or (ii) are being tendered on behalf of a person or entity who has not been identified to such Purchaser. Each Purchaser shall promptly notify the Issuer if it discovers that any such representation ceases to be true, and shall provide the Issuer with appropriate information in connection therewith;
- 17.8 No person has made any written or oral representations to the Purchasers:
- (a) that any person will resell or repurchase the Notes;
 - (b) that any person will refund the aggregate purchase price of the Notes; or
 - (c) as to the future price or value of the Notes.
- 17.9 Each Purchaser acknowledges and consents to the fact that the Issuer is collecting personal information (as that term is defined under applicable privacy legislation, including, without limitation, the *Personal Information Protection and Electronic Documents Act* (Canada) and any other applicable similar, replacement or supplemental

state, provincial or federal legislation or laws in effect from time to time) of such Purchaser for the purpose of completing this Agreement. Each Purchaser acknowledges and consents to the Issuer retaining such personal information or any other information about an identifiable individual, including information provided by the in this Agreement (collectively "**Personal Information**") for as long as permitted or required by law or business practices; each Purchaser agrees and acknowledges that the Issuer may use and disclose such Personal Information: (i) for internal use with respect to managing the relationships between and contractual obligations of the Issuer and such Purchaser; (ii) for use and disclosure for income tax-related purposes, including, without limitation, where required by law, disclosure to taxing authorities; (iii) disclosure to professional advisers of the Issuer in connection with the performance of their professional services; (iv) disclosure to securities regulatory authorities and other regulatory bodies with jurisdiction with respect to reports of trade or similar regulatory filings; (v) disclosure to a governmental or other authority to which the disclosure is required by court order or subpoena compelling such disclosure and where there is no reasonable alternative to such disclosure; (vi) disclosure to any person where such disclosure is necessary for legitimate business reasons and is made with such Purchaser's prior written consent; (vii) disclosure to a court determining the rights of the parties under this Agreement; and (viii) for use and disclosure as otherwise required or permitted by law; in addition, each Purchaser further acknowledges and consents to the fact that the Issuer may be required to provide any one or more of the Canadian securities regulators, stock exchanges, the Investment Industry Regulatory Organization of Canada, other regulatory agencies or the Issuer's registrar and transfer agent with any Personal Information provided by such Purchaser in this Agreement, and may make any other filings of such Personal Information as the Issuer's counsel deem appropriate with prior written consent of such Purchaser, and each Purchaser hereby consents to and authorizes the foregoing use and disclosure of such Personal Information and agrees to provide, on request, all particulars required by the Issuer in order to comply with the foregoing.

The Purchasers further acknowledge and authorize the indirect collection of personal information by the Ontario Securities Commission and confirms that it has been notified by the Issuer:

- (a) that the Issuer will be delivering the Personal Information to the Ontario Securities Commission;
- (b) that such Personal Information is being collected indirectly by the Ontario Securities Commission under the authority granted to it under applicable securities laws;
- (c) that such Personal Information is being collected for the purpose of the administration and enforcement of applicable securities laws; and
- (d) that the title, business address and business telephone number of the public official in the Province of Ontario, who can answer questions about the Ontario Securities Commission's indirect collection of the Personal Information is as follows:

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Administrative Assistant to the Director of Corporate Finance
Ontario Securities Commission
Suite 1903, Box 55, 20 Queen Street West
Toronto, Ontario M5H 2S8
Telephone: (416) 593-8086
Facsimile: (416) 593-8252

- 17.10 The offer, sale and issuance of the Notes is exempt from the prospectus and registration requirements of applicable securities laws and, as a result: (i) the Purchasers may not receive information that would otherwise be required under applicable securities laws or be contained in a prospectus prepared in accordance with applicable securities laws, (ii) the Purchasers are restricted from using most of the protections, rights and remedies available under applicable securities laws, including statutory rights of rescission or damages, and (iii) the Issuer is relieved from certain obligations that would otherwise apply under applicable securities law.
- 17.11 Each Purchaser understands and acknowledges that the Issuer and its affiliates are subject to restrictions on ownership and control imposed pursuant to the *Telecommunications Act* (Canada) and *Radio Communication Act* (Canada) and the regulations thereunder (collectively, the "Communications Statutes"). These restrictions may affect the ability of non-Canadians to own any of the securities of the Issuer and to sell or otherwise dispose of these securities to non-Canadians. The directors of the Issuer may take such actions as may be necessary in order to ensure that the Issuer and its affiliates at all times remain in compliance with the Communications Statutes.

18. EXPENSES

The Issuer and each Guarantor will and hereby does indemnify and save harmless each of the Purchasers and their respective Advisors from any loss or damage incurred as a result of entering into this Agreement or any other Transaction Document or purchasing the Notes, except for any loss or damage incurred as a result of the gross negligence or wilful misconduct of any of the Purchasers or their respective Advisors. All reasonable out-of-pocket expenses and costs, including, without limitation, all reasonable and documented legal and advisory fees, incurred by each of the Purchasers and their respective Advisors in connection with any matter arising hereunder or any documents issued in connection with this Agreement or any of the Transaction Documents or otherwise in connection with the purchase of the Notes shall be for the sole account of the Issuer and shall be paid within five (5) days of being invoiced.

19. TAXES

All payments by the Issuer and/or the Guarantors to any Purchaser, including without limitation any payments required to be made from and after the exercise of any remedies available to the Purchasers upon an Event of Default, shall, except as required by applicable law, be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively "Taxes"); provided, however, that if any Taxes (other than Excluded Taxes) are

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required by applicable law to be deducted or withheld ("Withholding Taxes") from any interest or other amount payable to any Purchaser hereunder or under any other document delivered pursuant to the terms hereof, the amount so payable to such Purchaser shall be increased to the extent necessary to yield to the relevant party on a net basis after payment of all Withholding Taxes, the amount payable under such documentation at the rate or in the amount specified in such documentation and the Issuer shall provide evidence satisfactory to the Purchasers that the Taxes have been so withheld and remitted. Notwithstanding the foregoing, prior to an Event of Default, an assignee of a Purchaser shall not be entitled to any greater payment under this Article 19 than the Purchaser from which it received its assignment.

In addition, the Issuer and Guarantors shall reimburse and indemnify each Purchaser for any Withholding Taxes paid by such Purchaser within 10 days upon receiving evidence from the Purchaser that it has paid the Withholding Taxes, whether or not such Withholding Taxes were correctly or legally asserted. If a Purchaser determines, in its sole discretion exercised in good faith, that it has received a refund of Withholding Taxes to which it has been indemnified and reimbursed by the Issuer and/or Guarantors, it shall pay to the relevant Issuer and/or Guarantor an amount equal to such refund, net of all out-of-pocket expenses (including any taxes) and without interest. Such indemnifying Issuer and/or Guarantor shall, upon request, repay to such Purchaser the amount paid over to the Issuer and/or Guarantor hereunder in the event that the Purchaser is required to repay such refund to a Government Entity.

20. NOTES

20.1 Transfer and Exchange of Notes

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

20.2 Replacement of Notes

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

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

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

the Issuer at its own expense, within five (5) Business Days thereafter, shall execute and deliver in lieu thereof, a new Note (representing the same, continuing obligation as the lost, stolen,

destroyed or mutilated Note), dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note.

20.3 Notes Held by Issuer, etc.

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

21. MISCELLANEOUS

21.1 Further Assurances

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

21.2 Unrestricted Purchasers

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

21.3 Adequate Protection

The Issuer and each of the Guarantors hereby agrees and acknowledges that there is not adequate protection for the holders of the Notes, the Senior Notes and the Senior Unsecured Debentures to permit any financing, including any "debtor-in-possession" financing, it being acknowledged by the Purchasers that certain debtor-in-possession financings will be permitted subject to the terms and conditions of the Adequate Protection Letter.

21.4 Disclosure

No press release or other public disclosure concerning the transactions contemplated herein shall be made by the Issuer or Guarantors without the prior consent of the Purchasers (such consent not to be unreasonably withheld); *provided*, however, that the Issuer and Guarantors shall, after providing the Purchasers and their Advisors with copies of all related documents and an opportunity to consult with the Purchasers and their Advisors as to the contents, make prompt disclosure of the material terms of this Agreement and make such disclosure as may be required by applicable law, by any regulatory authority having jurisdiction over the Issuer and Guarantors, or by any court of competent jurisdiction. Notwithstanding the foregoing, no

information with respect to the identity of any Purchaser shall be disclosed by the Issuer or any Guarantor except as may be required by applicable law, by any regulatory authority having jurisdiction over the Issuer or Guarantors, or by any court of competent jurisdiction.

21.5 Conflict

To the extent that there is any inconsistency between this Agreement and any of the other documentation relating hereto (other than the Support Agreements), this Agreement shall govern. To the extent that there is any inconsistency between this Agreement and the Support Agreements, the Support Agreements shall govern.

21.6 Amendments and Waivers

This Agreement shall only be amended or waived with the consent of the Required Purchasers or the Purchasers, as applicable and the Issuer and the Guarantors.

21.7 Assignments

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

21.8 Governing Law

- (a) This Agreement, the other Transaction Documents or any other documents executed in connection therewith and each of the documents contemplated herein shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- (b) The Issuer and each Guarantor hereby consents and agrees that the courts of the Province of Ontario shall have non-exclusive jurisdiction to hear and determine any claims or disputes between the Issuer, the Guarantors, the Collateral Agent and the Purchasers pertaining to this Agreement or any of the other documents related thereto or to any matter arising out of or relating to this Agreement or any of the other documents related thereto. Nothing in this Agreement shall be deemed or operate to preclude the Collateral Agent or the Purchasers from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the obligations, or to enforce a judgment or other court order. The Issuer and each Guarantor expressly submits and consents in advance to such jurisdiction in any action or suit commenced in any such court, and the Issuer and each Guarantor hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue or *forum non conveniens* and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. The Issuer and each Guarantor hereby waives personal service of the summons, complaint and other process issued in any such action or suit and agree that service of such summons, complaints and other process may be made by registered mail (return receipt requested) addressed to it at the address set forth in Section 21.17 of this Agreement and that service so made shall be

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deemed completed upon the earlier of its actual receipt thereof or three (3) Business Days after deposit with Canada post, proper postage paid.

21.9 Currency

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

21.10 Exclusivity

Upon entering into this Agreement, the Issuer and each Guarantor agrees that it will not enter into bilateral arrangements with any party to provide any debt facility of any kind or similar financing arrangement, in each case for any purpose contemplated by this Agreement or any other similar purpose, in each case excluding the Follow-on Facility contemplated hereby, unless the consent of the Purchasers has been obtained.

21.11 Confidentiality

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

21.12 Counterparts and Facsimile; Signatures

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

21.13 Indemnity

The Issuer and the Guarantors shall indemnify and hold harmless each of the Collateral Agent, the Purchasers and their respective Affiliates, and each such Person's respective officers, directors, shareholders, employees, legal counsel, agents and representatives (each, an "**Indemnified Person**"), from and against any and all suits, actions, proceedings, orders, claims, damages, losses, liabilities and expenses (including reasonable and documented legal fees and disbursements and other costs of investigation or defense, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as a result of or in connection with (i) the breach by the Issuer of its obligations in connection with or arising out of the transactions contemplated under this Agreement and the other documents related thereto and any actions or failures to act in connection therewith including the taking of

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any enforcement actions by the Collateral Agent, and (ii) all reasonable legal costs and expenses arising out of or incurred in connection with disputes between or among the Purchasers, the Issuer, the Guarantors and/or any other party or parties to any of the documents related thereto (excluding any such legal costs and expenses incurred by any Purchaser or the Collateral Agent in connection with disputes solely between such Purchasers, or as between a Purchaser or Purchasers and the Collateral Agent (except to the extent that the Issuer and the Guarantors are required to reimburse the Collateral Agent for such costs and expenses under the Collateral Agency Agreement)) (collectively, "**Indemnified Liabilities**"); provided that the Issuer and the Guarantors shall not be liable for any indemnification to an Indemnified Person to the extent that any such suit, action, proceeding, claim, damage, loss, liability or expense results from that Indemnified Person's gross negligence or wilful misconduct. No Indemnified Person shall be responsible or liable to any other party to any document related thereto, any successor, assignee or third party beneficiary of such Person or any other Person asserting claims derivatively through such party, for indirect, punitive, exemplary or consequential damages which may be alleged as a result of the purchase of the Notes or as a result of any other transaction contemplated hereunder or under any of the documents related thereto.

21.14 No Waiver

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

21.15 Remedies

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

21.16 Severability

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

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21.17 Notices

Except as otherwise provided herein, whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties by any other parties, or whenever any of the parties desires to give or serve upon any other parties any communication with respect to this Agreement, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be deemed to have been validly served, given or delivered

- (a) upon the earlier of actual receipt and three (3) Business Days after deposit with Canada Post, registered mail, return receipt requested, with proper postage prepaid,
- (b) upon transmission, when sent by telecopy or other similar facsimile transmission (with such telecopy or facsimile promptly confirmed by delivery of a copy by personal delivery or with Canada Post as otherwise provided in this Section 21.17),
- (c) upon receipt, when sent by electronic mail (with such electronic mail promptly confirmed by delivery of a copy by personal delivery or Canada Post as otherwise provided in this Section 21.17) and such notice, demand, request, consent, approval, declaration or other communication shall be in "pdf" format and shall include the actual signature of the party sending such communication if that signature would be required or customary if the communication was delivered by telecopier,
- (d) one (1) Business Day after deposit with a reputable courier for overnight delivery with all charges prepaid, or
- (e) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address or facsimile number indicated Schedule C hereto or to such other address (or facsimile number) as may be substituted by notice given as herein provided.

The giving of any notice required hereunder may be waived in writing by the party entitled to receive such notice. Failure or delay in delivering copies of any notice, demand, request, consent, approval, declaration or other communication to any Person (other than the Issuer or Collateral Agent) designated Schedule C to receive copies shall in no way adversely affect the effectiveness of such notice, demand, request, consent, approval, declaration or other communication.

21.18 Section Titles

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

21.19 Reinstatement

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

21.20 No Strict Construction

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

21.21 Permitted Liens

Except as otherwise expressly provided in this Agreement, the designation of any Lien as a permitted lien is not, and shall not be deemed to be, an acknowledgment by the Collateral Agent or any of the Purchasers that the Lien shall have priority over the security interests granted to the Collateral Agent for the benefit of itself and the Purchasers in the Collateral pursuant to the Security Documents.

21.22 Signing Authority

Each Signatory has delivered a letter to the Issuer dated as of the date hereof (each a "Signing Authority Letter") confirming its authority to sign this Agreement and all other Transaction Documents for and on behalf of the Purchasers listed on Schedule A to such Signatory's Signing Authority Letter.

21.23 Collateral Agent

The Collateral Agent is a party to this Agreement solely in its capacity as collateral agent pursuant to the terms the Collateral Agency Agreement, and has not, by entering into this Agreement, assumed any obligations or liabilities other than those contained in the Collateral Agency Agreement. To the extent that there is any inconsistency between any term of this Agreement and the Collateral Agency Agreement, insofar as such inconsistency affects the Collateral Agent, the Collateral Agency Agreement shall govern.

21.24 Principles of Construction

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

21.25 Confidentiality

The Issuer and the Guarantors agree, on their own behalf and on behalf of their Representatives, to maintain the confidentiality of the identity and, to the extent known, specific holdings of the Purchasers; provided, however, that such information may be disclosed: (a) to the Issuer's and Guarantors' respective directors, trustees, executives, officers, auditors, and employees and financial and legal advisors or other agents (collectively referred to herein as the "Representatives" and individually as a "Representative") and provided further that each such Representative is informed of, and agrees to abide by, this confidentiality provision; and (b) to Persons in response to, and to the extent required by, (i) any subpoena, or other legal process, including, without limitation, by a court of competent jurisdiction or applicable rules, regulations or procedures of such court, (ii) any Governmental Entity, or (iii) applicable Law. If the Issuer, the Guarantors or their Representatives are required to disclose the identity or the specific holdings of a Purchaser in the manner set out in the preceding sentence, the Issuer and/or the Guarantors shall provide such Purchaser with prompt written notice of any such requirement, to the extent permissible and practicable under the circumstances, so that such Purchaser may (at

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the Issuer's expense) seek a protective order or other appropriate remedy or waiver of compliance with the provisions of this Agreement. Notwithstanding the provisions in this Section or elsewhere in this Agreement: (x) the Issuer and/or the Guarantors may disclose the identity of a Purchaser in any action to enforce this Agreement against such Purchaser (and only to the extent necessary to enforce this Agreement against such Purchaser); and (y) the Issuer and/or the Guarantors may disclose, to the extent consented to in writing by a Purchaser (or by such Purchaser's duly authorised advisor), a Purchaser's identity and holdings.

[Remainder of this page is intentionally left blank.]

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: _____

Name: Stewart Lyons
Title: President

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: _____

Name: Stewart Lyons
Title: President

**DATA & AUDIO-VISUAL ENTERPRISES
LEASING INC., as a Guarantor**

Per: _____

Name: Stewart Lyons
Title: President

[Redacted]

[Redacted]

[Redacted]

**EQUITY FINANCIAL TRUST COMPANY, as
Collateral Agent**

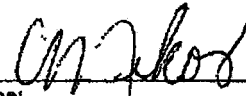
Per: 

Name:

Kathy Thorpe

Title:

Senior Trust Officer

Per: 

Name:

Carol Mikos

Title:

Senior Advisor Trust Services

Note Purchase Agreement

SCHEDULE A

[Redacted]

SCHEDULE B
PERMITTED AFFILIATE TRANSACTIONS

Nil

**SCHEDULE C
NOTICES**

If to the Issuer or any Guarantor

Data & Audio-Visual Enterprises Wireless Inc.
101 Exchange Ave
Vaughan, Ontario, L4K 5R6

Attn: Stewart Lyons
Fax: 416.650.9706
E-mail: stewart.lyons@mobilitycity.ca

and a copy to:

Norton Rose Canada LLP
Royal Bank Plaza, South Tower, Suite 3800
200 Bay Street, P.O. Box 84
Toronto, ON
M5J 2Z4

Attn: Walied Soliman
Fax: 416.216.3930
E-mail: waliel.soliman@nortonrose.com

If to any Purchaser:

Goodmans LLP
333 Bay Street, Suite 3400
Toronto, Ontario, M5H 2S7

Attn: Rob Chadwick/Jay Feldman
Fax: 416.979.1234
E-mail: rchadwick@goodmans.ca/jfeldman@goodmans.ca

**SCHEDULE D
DEFINITIONS**

Defined Term	Section Number
Adequate Protection Letter	11.1(q)
Advisor Retainers	12(f)
Affiliate Payments	12(q)
Appendices	21.24(c)
Bridge Funding Fee	3.4
Business Day	10.1
Cash Flow Forecast	11.1(m)
Closing Date	2.2
Collateral	12(w)
Collateral Agent	Parties
Commitment	3.1
Company Permits	12(u)(i)
Confidential Information	21.11
Criminal Code interest	10.3(a)
criminal rate	10.3(a)
CRTC	12(u)(i)
Default	13(f)(viii)
Distribution	13(w)
Event of Default	14.1
Excess Amount	10.3(a)
Final Closing Date	2.2
Final Notes	11.3
Final Order	11.3(a)
Guarantors	Parties
Indemnified Liabilities	21.13
Indemnified Person	21.13
Interim Order	11.2(a)
Initial Closing Date	2.2
Initial Notes	11.1
Interest Rate	3.3
Issuer	Parties
Lien	6.2
Liquidity Event	3.5
Liquidity Payment	3.5
Maturity Date	8.1
Notes	2.1
Other Transaction	13(o)
PCMLTF Act	17.7
Permitted Liens	11.1(c)
Personal Information	17.9
Purchase Price	2.1
Representative(s)	21.25

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Defined Term	Section Number
Required Purchasers	5.1
Securities Act	17.1
Security	6.1
Security Documents	11.1(c)
Signing Authority Letter	21.22
Subsequent Closing Date	2.2
Subsequent Notes	11.2
Taxes	19
Total Commitment	3.1
Withholding Taxes	19

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

"Advisors" means the legal and financial advisors to the Purchasers.

"Affiliate" means (a) any Person which, directly or indirectly, Controls, is Controlled by or is under common Control with any other Person; (b) any Person which beneficially owns or holds, directly or indirectly, 10% or more of any class of voting stock or equity interest (including partnership interests) of any other Person; (c) any Person, 10% or more of any class of the voting stock (or if such Person is not a corporation, 10% or more of the equity interest, including partnership interests) of which is beneficially owned or held, directly or indirectly, by any other Person; or (d) any Person related within the meaning of the *Income Tax Act* (Canada) to any such Person and includes any "Affiliate" within the meaning specified in the CBCA on the date hereof.

"BIA" means the *Bankruptcy and Insolvency Act* (Canada).

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

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

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

"CCAA" means the *Companies' Creditors Arrangement Act* (Canada).

"Change of Control" has the meaning attributed to such term in part (i) of the definition of "Change of Control" in the Senior Indenture.

"Collateral Agency Agreement" means the collateral agency agreement dated as of the date hereof by and among the Purchasers, the Collateral Agent, the Issuer and the Guarantors.

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"Companies' Support Agreement" means the refinancing and recapitalization support agreement dated as of the date hereof by and among the Issuer, the Guarantors and the consenting noteholders party thereto from time to time.

"Contracts" means all agreements, contracts, leases (whether for real or personal property), purchase orders, undertakings, covenants not to compete, employment agreements, confidentiality agreements, licenses, instruments, obligations and commitments to which a Person is a party or by which a Person or any of its assets are bound or affected, whether written or oral.

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

"Convertible Debentures" means any debentures or other similar debt instruments issued to Quadrangle or its affiliates by Holdings, including any debentures issued under the Quadrangle Commitment.

"Convertible Securities" means warrants, options or other securities of a Person convertible into Equity Securities of such Person.

"Disclosure Letter" means a letter from the Issuer and the Guarantors to the Purchaser's counsel, Goodmans LLP dated the date hereof and attached as Schedule I hereto, all or any portion of which Goodmans LLP shall be entitled to share with one or more Purchasers.

"Distribution" means the retirement, redemption, retraction, purchase, repayment or other acquisition of any Equity Securities or Indebtedness of any Person; the declaration or payment of any dividend, return of capital or other distribution of, on or in respect of Equity Securities of any Person; or any other payment or distribution (in cash, securities or other property or otherwise) of, on or in respect of any Equity Securities or Indebtedness of any Person or any of its subsidiaries, except for payments in relation to the Senior Notes and payments in kind in relation to the Senior Unsecured Notes and the Convertible Debentures.

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

"Excluded Taxes" means Taxes based upon or measured by a Purchaser's overall net income, capital, net receipts or net profits or franchise taxes imposed in lieu thereof, and imposed by a taxing authority in a jurisdiction in which such Purchaser is organized, its principal office is located or it has its lending office in respect of which payments under the Agreement are made.

"Financial Statements" means (a) the audited consolidated balance sheet of the Issuer and the Guarantors as at December 31, 2011 and the related audited consolidated statement of operations and comprehensive loss, consolidated statement of cash flows for each of the fiscal years then

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ended, together with the report thereon of independent certified public accountants, each prepared in accordance with GAAP consistently applied throughout the periods covered, and (b) an unaudited consolidated balance sheet of the Issuer and the Guarantors as of September 30, 2012, and the related unaudited consolidated statement of operations and comprehensive loss and consolidated statement of cash flows for such period, each prepared in accordance with GAAP consistently applied throughout the periods covered.

"Follow-on Facility" means a facility providing for the issuance of up to \$75,000,000 of new second lien notes to holders of Pari Passu Convertible Debentures and Senior Unsecured Debentures (including the Purchasers) as at December 31, 2012 substantially on the terms and conditions specified in the Refinancing and Recapitalization Terms (as defined in the Companies' Support Agreement).

"Follow-on Notes" means the notes to be issued pursuant to the Follow-on Facility.

"GAAP" means International Financial Reporting Standards as in effect from time to time.

"Governmental Entity" means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

"Guarantee" of or by any Person (in this definition, the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (in this definition, the "primary credit party") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof (whether in the form of a loan, advance, stock purchase, capital contribution or otherwise), (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital solvency, or any other balance sheet, income statement or other financial statement condition or liquidity of the primary credit party so as to enable the primary credit party to pay such Indebtedness or other obligation, (d) as an account party in respect of any letter of credit or letter of guarantee issued to support such Indebtedness or other obligation, or (e) to purchase, sell or lease (as lessor or lessee) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Indebtedness or to assure the holder of such Indebtedness against loss.

"Holdings" means Data & Audio-Visual Enterprises Holdings Inc.

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such

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Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guarantee, (j) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (k) all negative marked-to-market exposure of such Person under Swap Agreements, and (l) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value (other than for other Equity Securities) any Equity Securities in the capital of such Person, valued, in the case of redeemable Equity Securities, at the greater of voluntary or involuntary liquidation preference, plus accrued and unpaid dividends.

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

"Liability" or "Liabilities" means any direct or indirect liability, indebtedness, obligation, commitment, expense, claim, deficiency, guaranty or endorsement of or by any Person of any type, whether accrued, absolute, contingent, matured, unmatured liquidated, unliquidated, known or unknown.

"Leasing" means Data & Audio-Visual Enterprises Leasing Inc.

"Material" means a fact, circumstance, change, effect, matter, action, condition, event, occurrence or development that, individually or in the aggregate, is, or would reasonably be expected to be, material to the business, affairs, results of operations or financial condition of the Issuer and the Guarantors (taken as a whole).

"Material Contract" means (a) the contracts, licences and agreements listed and described on Schedule H hereto, and (b) any other contract, licence or agreement (i) to which the Issuer or any Guarantor is a party or is bound, (ii) which is material to, or necessary in, the operation of the business of the Issuer or any Guarantor, and (iii) which a the Issuer or any Guarantor cannot promptly replace by an alternative and comparable contract with comparable commercial terms.

"Material Adverse Effect" means an event, change or occurrence that, individually or together with any other event, change or occurrence, has a material adverse impact on the financial condition, business or results of operations of the Issuer and the Guarantors (taken as a whole) and shall include, without limitation, the disposition by the Issuer or any Guarantor of any

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material asset without the prior consent of the Purchasers; provided, however, that a Material Adverse Effect shall not include, and shall be deemed to exclude the impact of: (A) changes in laws of general applicability or interpretations thereof by courts or governmental or regulatory authorities, (B) actions and omissions of the Issuer or any Guarantor taken with the prior written consent of the Purchasers, (C) the effects of compliance with this Agreement, including on the operating performance of the Issuer and the Guarantors, (D) the negotiation, execution, delivery, performance, consummation, potential consummation or public announcement of this Agreement or the transactions contemplated by this Agreement, including any litigation resulting therefrom or with respect thereto, and any adverse change in customer, distributor, employee, supplier, financing source, licensor, licensee, sub-licensee, shareholder, collaboration or joint venture partner or similar relationships resulting therefrom or with respect thereto, (E) any change or development in Canadian financial, credit or securities markets, general economic or business conditions, or political conditions, (F) any act of war, armed hostilities or terrorism or any worsening thereof, or (G) any failure by the Issuer or any Guarantor to meet internal projections or forecasts or third party revenue or earnings predictions for any period (it being understood that any cause of any such failure may be taken into consideration when determining whether a Material Adverse Effect has occurred or is reasonably expected to occur).

"Noteholder Confidentiality Agreement" means a confidentiality agreement entered into or binding upon a Purchaser and one or more of the Issuer and the Guarantors.

"Pari Passu Convertible Debentures" means the Initial Convertible Debentures as such term is defined in the Quadrangle Commitment.

"Plan" means the plan of arrangement to be filed under the CBCA and containing substantially the terms set out in Schedule F hereto, in form and in substance satisfactory to the Issuer, the Guarantors and each Purchaser and its Advisors.

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

"Purchasers" means, collectively, the funds that are managed or administered by each Signatory and listed on Schedule A to such Signatory's Signing Authority Letter.

"Quadrangle" means QCP CW S.a.r.l.

"Quadrangle Commitment" means the Second Amended and Restated Commitment Agreement dated as of April 29, 2011 by and among Holdings, Quadrangle and Data & Audio-Visual Enterprises Investments Inc., as it exists on the date hereof.

"Sale Transaction" means a sale by the Issuer and the Guarantors of all or substantially all their assets or ongoing business operations.

"Senior Agent" means Equity Financial Trust Company, as trustee and collateral agent under the Senior Indenture.

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"Senior Indenture" means the first lien secured indenture dated as of April 29, 2011 by and among the Issuer, as issuer, the guarantors party thereto and Equity Financial Trust Company, as trustee, as it exists on the date hereof.

"Senior Noteholders" means the holders of the Senior Notes.

"Senior Notes" means the notes issued under the Senior Indenture.

"Senior Obligations" means all obligations of the Issuer and the Guarantors under the Senior Indenture and the Senior Notes.

"Senior Supplemental Indenture" means the supplemental indenture to the Senior Indenture entered into by and among the Issuer, the Senior Agent and the guarantors party thereto on or about the date hereof.

"Senior Unsecured Debentures" means the debentures issued under the Senior Unsecured Indenture.

"Senior Unsecured Indenture" means the trust indenture amended and restated as of April 29, 2011 between Holdings, as issuer and Equity Financial Trust Company, as trustee, as it exists on the date hereof.

"Shareholders" means each of the shareholders of Holdings, including each of Quadrangle and Data & Audio-Visual Enterprises Investments Inc.

"Shareholders Agreement" means the Second Amended and Restated Shareholders Agreement made as of May 14, 2010 between Data & Audio-Visual Enterprises Investments Inc., Quadrangle, Holdings and the Issuer.

"Signatory" means each party listed on the signature pages to this Agreement that is signing for and on behalf of the Purchasers that it manages or administers that are listed on Schedule A to such party's Signing Authority Letter.

"Support Agreements" means the Companies' Support Agreement and any other support agreement entered into from time to time in connection with the Plan and the transactions contemplated by the Companies' Support Agreement.

"Spectrum Licenses" means the spectrum licences issued to the Issuer for spectrum in the 1730-1735, 2130-2135, 1735-1740 and 2135-2140 MHz frequency bands, and any other spectrum or radio licences held by the Issuer or any Guarantor and issued pursuant to the *Radiocommunication Act* (Canada) and the regulations made thereunder.

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

- 8 -

"Transaction Documents" means this Agreement, the Notes, the Security Documents, the Support Agreements, the Collateral Agency Agreement, the Perfection Certificate, the Disclosure Letter and all other documents or instruments delivered pursuant to the terms thereof or in connection therewith.

"Unsecured Supplemental Indenture" means the supplemental indenture to the Senior Unsecured Indenture entered into by and among Holdings, as issuer and Equity Financial Trust Company, as trustee on or about the date hereof.

SCHEDULE E

[Redacted]

SCHEDULE F
TERMS OF PLAN OF ARRANGEMENT

See attached.

**MOBILICITY
RECAPITALIZATION AND RESTRUCTURING TERMS**

All Figures in CANADIAN Dollars unless otherwise indicated

Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to such terms in the Support Agreement.

**SECOND
OFFERING** **LIEN** Pursuant to a plan of arrangement under the CBCA or other corporate statute as agreed to by the Backstoppers (as defined below) (the "Plan"), all holders of Notes and Convertible Debentures ranking pari passu with the Notes (the "Pari Passu Convertible Debentures") as at December 31, 2012 will have the pro-rata right to invest up to \$75 million into new second lien notes (the "Second Lien Notes").

The investment in Second Lien Notes will be made by way of a backstopped rights offering for Second Lien Notes (the "Second Lien Offering").

The Second Lien Offering will be drawn in full upon implementation of the Plan.

**ELIGIBLE
INVESTORS:** All holders of Notes and Pari Passu Convertible Debentures in accordance with their pro rata holdings as at December 31, 2012 (the "Eligible Investors").

BACKSTOPPERS: The Second Lien Offering will be backstopped (the "Backstop") by certain parties disclosed to the Companies by Goodmans LLP (the "Backstoppers").

USE OF PROCEEDS: The proceeds from the Second Lien Offering shall be used first to repay \$43,250,000 of 15.5% per annum second lien secured notes issued by Wireless (plus all accrued interest thereon and fees then owing in connection therewith), with the balance to be used for general corporate and working capital purposes.

- 2 -

**FORM
INVESTMENT:**

OF The investment will be made through the issue and purchase of Second Lien Notes that shall rank ahead of all other indebtedness of the Companies other than the Senior Notes.

Each of the Second Lien Notes shall be secured by a second-priority perfected security interest in the same collateral held as security for the Senior Notes.

RATE:

15.5% per annum, payable semi-annually in kind through the issuance of additional Second Lien Notes.

NOTE RATIO:

Upon implementation of the Plan, each Eligible Investor shall have the right, on a pro-rata basis to exchange (at a ratio of 1.00x funded Second Lien Notes) its existing Notes (plus accrued interest thereon to the filing date of the Plan) and/or Pari Passu Convertible Debentures (plus accrued interest thereon to the filing date of the Plan), as applicable, into Second Lien Notes coincident with funds drawn under the Second Lien Offering ("Note Ratio") in addition to any Early Consent Consideration and/or Backstop Consideration such holder is entitled to hereunder (each as defined below).

**EARLY CONSENT
CONSIDERATION:**

Each Eligible Investor that participates in the Second Lien Offering and that on or prior to February 20, 2013 (the "Consent Date") executes (i) the Support Agreement, (ii) a joinder agreement to the Support Agreement in form and substance satisfactory to the Backstoppers or (iii) a support agreement in form and substance satisfactory to the Companies and the Backstoppers (each a "Consent Date Signatory"), as additional consideration for its support of the transactions described herein, shall have the right, on a pro-rata basis to, coincident with funds drawn under the Second Lien Offering, exchange its existing Notes (plus accrued interest thereon to the filing date of the Plan) or Pari Passu Convertible Debentures (plus accrued interest thereon to the filing date of the Plan), as applicable, into Second Lien Notes at a ratio of 0.25x funded Second Lien Notes ("Early Consent Consideration") in addition to any Note Ratio and/or Backstop Consideration such holder is entitled to hereunder. The Consent Date may be extended with the prior written consent of the Backstoppers.

**BACKSTOP
CONSIDERATION:**

Each Backstopper, as additional consideration for the Backstop, shall have the right, on a pro-rata basis to, coincident with funds drawn under the Second Lien Offering, exchange its existing Notes (plus accrued interest thereon to the filing date of the Plan) into Second Lien Notes at a ratio of 0.25x funded Second Lien Notes ("Backstop Consideration") in addition to any Note Ratio and/or Early Consent

- 3 -

Consideration such Backstopper is entitled to hereunder.

TREATMENT OF NON-PARTICIPANTS: In the event Eligible Investors elect not to participate in the Second Lien Offering or do not participate in an amount equal to their pro rata share of the Notes and/or Pari Passu Convertible Debentures (the "Non-Participants"); then the face amount of each such Non-Participant's Notes or Pari Passu Convertible Debentures, as applicable (plus accrued interest thereon to the filing date of the Plan), together with any Notes and Pari Passu Convertible Debentures not eligible for exchange (plus accrued interest thereon to the filing date of the Plan), shall be exchanged on a dollar for dollar basis into preferred non-voting equity having a cumulative dividend entitlement of 15% per annum (the "New Preferred Equity").

To the extent there are any notes which are junior to the Notes and/or the Pari Passu Convertible Debentures, the face amount of such notes (plus accrued interest thereon to the filing date of the Plan) shall be exchanged on a dollar for dollar basis into junior preferred non-voting equity which shall be non-accreting (the "**Junior Preferred Equity**").

EQUITY: Upon implementation of the Plan, the Backstoppers shall receive voting shares that will entitle them to exercise all of the votes attributable to all post-restructuring common equity (the "**New Common Equity**"). The New Common Equity will be allocated as shown on Schedule "A" hereto. The New Preferred Equity and the Junior Preferred Equity will be allocated as set out above.

OUT OF THE MONEY WARRANTS: Holders of common equity that execute a support agreement by the Consent Date ("**Supporting Common Equity Holders**") will receive warrants for 15% of the non-voting New Common Equity at a strike price that is commensurate with a par recovery of the existing capital and the non-voting New Common Equity as shown on Schedule "A" hereto.

GOVERNANCE RIGHTS: Upon funding of the Second Lien Offering, the Backstoppers shall have the right to make changes to the board of directors, which will include a right to nominate a majority of the board of directors. New Common Equity held by the Backstoppers will have drag-along rights over all other equity.

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SCHEDULE "A"**New Common Equity Distribution**

Group	% Allocation
Backstoppers	20% (voting)
Participating Eligible Investors (including the Backstoppers)	70% (non-voting)
Supporting Common Equity Holders	10% (non-voting)
Total	100%

**SCHEDULE G
PERMITTED LIENS**

Secured Party(ies)	Debtor(s)	Reference File No. & Registration Number(s)	Collateral Classification	General Collateral Description	Comments
ESI Technologies De L'Information Inc.	Data & Audio Visual Enterprises Wireless Inc.	683247294 20121130 1258 2562 2464 1 year	Equipment	F5-BIG-LTM-4200V BIG-IP-Appliance; local traffic manager 4200V (16G Qty 2 F5-SVC-BIG-STD-L1-3 Big-IP Service Std Level 1-3 HWR/Refer to Licensin Qty 2 F5-ADD-BIG-DNS BIG-IP Add-on; DNS License Qty 2 F5-SVC-BIG-STD-L1-3 BIG-IP Service Std Level 1-3 HWR/Refer to licensin Qty 2 F5-UPG-AC-400W field upgrade; single 400W AC power (4000 series) QTY2 F5-INST-BIG-LTM BIG-IP installation; local traffic manager impleme Qty 1	Amount: \$95,511 No Fixed Maturity Date

SCHEDULE H
MATERIAL CONTRACTS

- 1 Second Amended and Restated Shareholders Agreement made as of May 14, 2010 between Data & Audio-Visual Enterprises Investments Inc., Quadrangle, Holdings and the Issuer.
- 2 Master Network Telecommunications Infrastructure Agreement between Ericsson Canada Inc. and the Issuer dated on or about July 20, 2009, as amended by the First Amendment to the Master Network Telecommunication Infrastructure Agreement made on February 26, 2010.
- 3 Master Distribution and Services Agreement entered into as of the 27th day of January, 2010 between Ingram Micro Inc. and the Issuer.
- 4 Managed Services Agreement between the Issuer, AMDOCS Canadian Managed Services, Inc. and AMDOCS Software Systems Limited.
- 5 Services Agreement between Sitel Services Canada and the Issuer, effective January 19, 2010, as amended by an Amendment to Services Agreement effective as of April 24, 2011.
- 6 Master Supply Agreement effective May 26, 2010 between Research In Motion Limited and the Issuer, as amended by Amendment One to the Master Supply Agreement and Amendment Two to the Master Supply Agreement.
- 7 Spectrum Licences issued under the authority of the Minister of Industry in accordance with the *Radiocommunication Act* and Regulations made thereunder to Data & Audio-Visual Enterprises Wireless Inc., effective February 11, 2009, expires February 10, 2019, for account number 07-090900512 and Licence numbers: 5078375, 5078374, 5078373, 5078372, 5078371, 5078370, 5078369, 5078368, 5078367 and 5078366.

**SCHEDULE I
DISCLOSURE LETTER**

See attached.

EXHIBIT A – FORM OF NOTE

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) FEBRUARY __, 2013 AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY”

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY STATE SECURITIES LAW AND MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE ISSUER, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT, (C) WITHIN THE UNITED STATES IN COMPLIANCE WITH (I) RULE 144 UNDER THE ACT, OR (II) RULE 144A UNDER THE ACT, AND IN EACH CASE IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE ACT OR ANY APPLICABLE STATE SECURITIES LAWS, AND THE HOLDER HAS, PRIOR TO SUCH SALE, FURNISHED TO THE ISSUER AN OPINION OF COUNSEL SATISFACTORY TO THE ISSUER.

DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA. AT ANY TIME THAT THE ISSUER IS A "FOREIGN ISSUER" (AS DEFINED IN RULE 902 UNDER THE ACT), A NEW CERTIFICATE, BEARING NO LEGEND, THE DELIVERY OF WHICH WILL CONSTITUTE "GOOD DELIVERY" MAY BE OBTAINED FROM THE REGISTRAR AND TRANSFER AGENT OF THE ISSUER UPON DELIVERY OF THIS CERTIFICATE AND A DULY EXECUTED DECLARATION, IN A FORM SATISFACTORY TO THE TRANSFER AGENT AND THE ISSUER, TO THE EFFECT THAT THE SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT AND, IF REQUESTED BY THE ISSUER OR ITS TRANSFER AGENT, AN OPINION OF COUNSEL OF RECOGNIZED STANDING, EACH IN A FORM SATISFACTORY TO THE TRANSFER AGENT OF THE ISSUER AND THE ISSUER, TO THE EFFECT THAT SUCH SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT.

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

(A corporation incorporated under the laws of Ontario)

15.5% Second Lien Secured Note

●, 2013

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. (the "Company"), for value received hereby acknowledges itself indebted and, subject to the provisions of a note purchase, guarantee and backstop agreement (as from time to time amended, restated, replaced or modified, the "Note Purchase Agreement") dated as of February __, 2013 between, *inter alia*,

- 2 -

the Company, Equity Financial Trust Company and the Purchasers named therein promises to pay to ●, the registered holder hereof, or its successors or permitted assigns, on the Maturity Date or on such earlier date as the principal amount hereof may become due in accordance with the terms of the Note Purchase Agreement, the principal sum of ● CANADIAN DOLLARS (CDN\$ ●) with interest (a) on the unpaid balance thereof at the Interest Rate from the date hereof, calculated daily and payable monthly and compounded (to the extent not paid when due) in arrears on the first Business Day of each month and on the Maturity Date in accordance with the terms of the Note Purchase Agreement, commencing on ●, 2013, until the principal hereof shall have become due and payable, and (b) to the extent permitted by law on any overdue payment (including any overdue prepayment) of principal or any overdue payment of interest, calculated and payable in accordance with the terms of the Note Purchase Agreement (or, at the option of the registered holder hereof, on demand), at a rate per annum from time to time equal to 2% above the Interest Rate. Capitalized terms used and not defined herein shall have the meaning assigned thereto in the Note Purchase Agreement.

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

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

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

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

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

This Note is secured by the Security.

Reference is hereby expressly made to the Note Purchase Agreement for a description of the terms and conditions upon which the Notes are issued and held and the rights and remedies of the holders of the Notes and of the Company, all to the same effect as if the provisions of the Note Purchase Agreement were herein set forth to all of which provisions the holder of this Note by acceptance hereof assents. To the extent that anything contained herein is inconsistent with or

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conflicts with the provisions of the Note Purchase Agreement, the provisions of the Note Purchase Agreement shall govern.

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC.**

Per: _____

Name:

Title:

**AMENDING AGREEMENT NO.1 TO NOTE PURCHASE, GUARANTEE AND
BACKSTOP AGREEMENT
15.5% Senior Secured Notes**

THIS AMENDING AGREEMENT NO.1 made as of the 21st day of February, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

- and -

EQUITY FINANCIAL TRUST COMPANY
solely in its capacity as collateral agent, together with its successors and
assigns
(the "Collateral Agent")

WHEREAS the Issuer and the Guarantors are party to that certain note purchase,
guarantee and backstop agreement dated as of February 6, 2013 (the "Note Purchase
Agreement") together with the Collateral Agent and the purchasers party thereto;

AND WHEREAS the parties have agreed to amend certain provisions of the Note
Purchase Agreement, but only to the extent and subject to the limitations set forth herein;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of
which are hereby acknowledged), the parties hereby agree as follows:

ARTICLE I – INTERPRETATION

1.1 All capitalized terms used herein and not otherwise defined herein shall have the
meanings ascribed to such terms in the Note Purchase Agreement.

ARTICLE II – AMENDMENTS

- 2.1 Section 13 of the Note Purchase Agreement is hereby amended by deleting sub-sections (c) and (d) thereof in their entirety and replacing them with the following new sub-sections (c) and (d):
- “(c) As soon as practicable following the Initial Closing Date, and in any event on or before February 28, 2013, the Issuer and/or the Guarantors shall have, in consultation with and with the prior approval of the Purchasers, completed all corporate action necessary to commence proceedings under the CBCA in order to implement the Plan.
- (d) As soon as practicable following the Initial Closing Date, and in any event on or before February 28, 2013, shall have filed all orders, motions or applications and other documents, and shall have taken all steps reasonably necessary and desirable to initiate proceedings with a court of competent jurisdiction to implement the Plan under the CBCA, all of which orders, motions, applications and other documents shall have been approved in advance by the Purchasers.”

ARTICLE III – CONDITIONS TO EFFECTIVENESS

- 3.1 This Amending Agreement shall become effective as of the first date written above upon the Issuer and the Collateral Agent receiving duly executed counterparts hereof which, when taken together, bear the authorized signatures of the Issuer, the Guarantors, the Collateral Agent and of each Signatory signing on behalf of the Purchasers who hold Notes in an aggregate principal amount equal to at least 66%% of the aggregate principal amount of Notes outstanding on such date.

ARTICLE IV – MISCELLANEOUS

- 4.1 The execution, delivery and performance of this Amending Agreement shall not, except as expressly provided for herein, constitute an amendment of any provision of, or operate as an amendment of any right, power or remedy of the Collateral Agent under the Note Purchase Agreement or any other document.
- 4.2 On and after this date, each reference in the Note Purchase Agreement to “this Agreement” and each reference to the “Note Purchase Agreement” or similar references in the Transaction Documents and any and all other agreements, documents and instruments delivered by any of the Purchasers, the Collateral Agent, the Issuer, the Guarantors or any other Person shall mean and be a reference to the Note Purchase Agreement as amended by this Amending Agreement. Except as specifically amended by this Amending Agreement, the Note Purchase Agreement shall remain in full force and effect and is hereby ratified and confirmed.
- 4.3 This Amending Agreement shall be interpreted and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 4.4 Save as expressly amended by this Amending Agreement, all other terms and conditions of the Note Purchase Agreement remain in full force and effect.

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

[Remainder of page intentionally left blank. Signature page follows.]

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: _____

Name: _____

Title: _____

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: _____

Name: _____

Title: _____

**DATA & AUDIO-VISUAL ENTERPRISES
LEASING INC., as a Guarantor**

Per: _____

Name: _____

Title: _____

**EQUITY FINANCIAL TRUST COMPANY, as
Collateral Agent**

Per: 

Name: Kathy Thorpe
Title: Senior Trust Officer

Per: 

Name:
Title: Donald Crawford
Corporate Trust Officer

[Redacted]

[Redacted]

[Redacted]

**AMENDING AGREEMENT NO.2 TO NOTE PURCHASE, GUARANTEE AND
BACKSTOP AGREEMENT
15.5% Senior Secured Notes**

THIS AMENDING AGREEMENT NO.2 made as of the 27th day of February, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

WHEREAS the Issuer and the Guarantors are party to that certain note purchase, guarantee and backstop agreement dated as of February 6, 2013 together with Equity Financial Trust Company, as collateral agent (the "Collateral Agent") and the purchasers party thereto (as amended by the Amending Agreement No.1 to Note Purchase, Guarantee and Backstop Agreement dated as of February 21, 2013, the "Note Purchase Agreement");

AND WHEREAS the parties have agreed to further amend certain provisions of the Note Purchase Agreement specified herein (the "Specified Provisions"), but only to the extent and subject to the limitations set forth herein;

AND WHEREAS pursuant to Section 5.1 and Section 21.6 of the Note Purchase Agreement, the Specified Provisions may be amended with the consent of the Required Purchasers, the Issuer and the Guarantors;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

ARTICLE I - INTERPRETATION

1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Note Purchase Agreement.

ARTICLE II - AMENDMENTS

- 2.1 Section 13 of the Note Purchase Agreement is hereby amended by deleting sub-sections (c) and (d) thereof in their entirety and replacing them with the following new sub-sections (c) and (d):

- "(c) As soon as practicable following the Initial Closing Date, and in any event on or before March 7, 2013, the Issuer and/or the Guarantors shall have, in consultation with and with the prior approval of the Purchasers, completed all corporate action necessary to commence proceedings under the CBCA in order to implement the Plan.
- (d) As soon as practicable following the Initial Closing Date, and in any event on or before March 7, 2013, shall have filed all orders, motions or applications and other documents, and shall have taken all steps reasonably necessary and desirable to initiate proceedings with a court of competent jurisdiction to implement the Plan under the CBCA, all of which orders, motions, applications and other documents shall have been approved in advance by the Purchasers."

ARTICLE III - CONDITIONS TO EFFECTIVENESS

- 3.1 This Amending Agreement shall become effective as of the first date written above upon the Issuer and the Collateral Agent receiving duly executed counterparts hereof which, when taken together, bear the authorized signatures of the Issuer, the Guarantors and of each Signatory signing on behalf of the Purchasers who hold Notes in an aggregate principal amount equal to at least 66% of the aggregate principal amount of Notes outstanding on such date.

ARTICLE IV - MISCELLANEOUS

- 4.1 The execution, delivery and performance of this Amending Agreement shall not, except as expressly provided for herein, constitute an amendment of any provision of, or operate as an amendment of any right, power or remedy of the Collateral Agent under the Note Purchase Agreement or any other document.
- 4.2 On and after this date, each reference in the Note Purchase Agreement to "this Agreement" and each reference to the "Note Purchase Agreement" or similar references in the Transaction Documents and any and all other agreements, documents and instruments delivered by any of the Purchasers, the Collateral Agent, the Issuer, the Guarantors or any other Person shall mean and be a reference to the Note Purchase Agreement as amended by this Amending Agreement. Except as specifically amended by this Amending Agreement, the Note Purchase Agreement shall remain in full force and effect and is hereby ratified and confirmed.
- 4.3 This Amending Agreement shall be interpreted and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 4.4 Save as expressly amended by this Amending Agreement, all other terms and conditions of the Note Purchase Agreement remain in full force and effect.

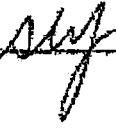
- 3 -

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

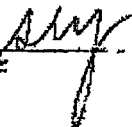
[Remainder of page intentionally left blank. Signature page follows.]

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

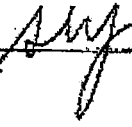
**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: 
Name:
Title:

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: 
Name:
Title:

**DATA & AUDIO-VISUAL ENTERPRISES
LEASING INC., as a Guarantor**

Per: 
Name:
Title:

[Redacted]

[Redacted]

[Redacted]

**AMENDING AGREEMENT NO.3 TO NOTE PURCHASE, GUARANTEE AND
BACKSTOP AGREEMENT
15.5% Senior Secured Notes**

THIS AMENDING AGREEMENT NO.2 made as of the 7th day of March, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

WHEREAS the Issuer and the Guarantors are party to that certain note purchase, guarantee and backstop agreement dated as of February 6, 2013 together with Equity Financial Trust Company, as collateral agent (the "Collateral Agent") and the purchasers party thereto (as amended by the Amending Agreement No.1 to Note Purchase, Guarantee and Backstop Agreement dated as of February 21, 2013 and the Amending Agreement No.2 to Note Purchase, Guarantee and Backstop Agreement dated as of February 27, 2013, the "Note Purchase Agreement");

AND WHEREAS the parties have agreed to further amend certain provisions of the Note Purchase Agreement specified herein (the "Specified Provisions"), but only to the extent and subject to the limitations set forth herein;

AND WHEREAS pursuant to Section 5.1 and Section 21.6 of the Note Purchase Agreement, the Specified Provisions may be amended with the consent of the Required Purchasers, the Issuer and the Guarantors;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

ARTICLE I - INTERPRETATION

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Note Purchase Agreement.

ARTICLE II – AMENDMENTS

- 2.1 Section 13 of the Note Purchase Agreement is hereby amended by deleting sub-sections (c) and (d) thereof in their entirety and replacing them with the following new sub-sections (c) and (d):

- “(c) As soon as practicable following the Initial Closing Date, and in any event on or before March 19, 2013, the Issuer and/or the Guarantors shall have, in consultation with and with the prior approval of the Purchasers, completed all corporate action necessary to commence proceedings under the CBCA in order to implement the Plan.
- (d) As soon as practicable following the Initial Closing Date, and in any event on or before March 19, 2013, shall have filed all orders, motions or applications and other documents, and shall have taken all steps reasonably necessary and desirable to initiate proceedings with a court of competent jurisdiction to implement the Plan under the CBCA, all of which orders, motions, applications and other documents shall have been approved in advance by the Purchasers.”

ARTICLE III – CONDITIONS TO EFFECTIVENESS

- 3.1 This Amending Agreement shall become effective as of the first date written above upon the Issuer and the Collateral Agent receiving duly executed counterparts hereof which, when taken together, bear the authorized signatures of the Issuer, the Guarantors and of each Signatory signing on behalf of the Purchasers who hold Notes in an aggregate principal amount equal to at least 66%% of the aggregate principal amount of Notes outstanding on such date.

ARTICLE IV – MISCELLANEOUS

- 4.1 The execution, delivery and performance of this Amending Agreement shall not, except as expressly provided for herein, constitute an amendment of any provision of, or operate as an amendment of any right, power or remedy of the Collateral Agent under the Note Purchase Agreement or any other document.
- 4.2 On and after this date, each reference in the Note Purchase Agreement to “this Agreement” and each reference to the “Note Purchase Agreement” or similar references in the Transaction Documents and any and all other agreements, documents and instruments delivered by any of the Purchasers, the Collateral Agent, the Issuer, the Guarantors or any other Person shall mean and be a reference to the Note Purchase Agreement as amended by this Amending Agreement. Except as specifically amended by this Amending Agreement, the Note Purchase Agreement shall remain in full force and effect and is hereby ratified and confirmed.
- 4.3 This Amending Agreement shall be interpreted and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 4.4 Save as expressly amended by this Amending Agreement, all other terms and conditions of the Note Purchase Agreement remain in full force and effect.

- 3 -

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

[Remainder of page intentionally left blank. Signature page follows.]

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: _____

Name: Stewart Lyons
Title: President

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: _____

Name: Stewart Lyons
Title: President

**DATA & AUDIO-VISUAL ENTERPRISES
LEASING INC., as a Guarantor**

Per: _____

Name: Stewart Lyons
Title: President

[Redacted]

[Redacted]

[Redacted]

**AMENDING AGREEMENT NO.4 TO NOTE PURCHASE, GUARANTEE AND
BACKSTOP AGREEMENT
15.5% Senior Secured Notes**

THIS AMENDING AGREEMENT NO.4 made as of the 19th day of March, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

WHEREAS the Issuer and the Guarantors are party to that certain note purchase, guarantee and backstop agreement dated as of February 6, 2013 together with Equity Financial Trust Company, as collateral agent (the "Collateral Agent") and the purchasers party thereto (as amended by the Amending Agreement No.1 to Note Purchase, Guarantee and Backstop Agreement dated as of February 21, 2013, the Amending Agreement No.2 to Note Purchase, Guarantee and Backstop Agreement dated as of February 27, 2013 and the Amending Agreement No.3 to Note Purchase, Guarantee and Backstop Agreement dated as of March 7, 2013, the "Note Purchase Agreement");

AND WHEREAS the parties have agreed to further amend certain provisions of the Note Purchase Agreement specified herein (the "Specified Provisions"), but only to the extent and subject to the limitations set forth herein;

AND WHEREAS pursuant to Section 5.1 and Section 21.6 of the Note Purchase Agreement, the Specified Provisions may be amended with the consent of the Required Purchasers, the Issuer and the Guarantors;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

ARTICLE I – INTERPRETATION

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Note Purchase Agreement.

ARTICLE II – AMENDMENTS

2.1 Section 13 of the Note Purchase Agreement is hereby amended by:

(a) deleting sub-sections (c) and (d) thereof in their entirety and replacing them with the following new sub-sections (c) and (d):

“(c) As soon as practicable following the Initial Closing Date, and in any event on or before April 8, 2013, the Issuer and/or the Guarantors shall have, in consultation with and with the prior approval of the Purchasers, completed all corporate action necessary to commence proceedings under the CBCA in order to implement the Plan.

(d) As soon as practicable following the Initial Closing Date, and in any event on or before April 8, 2013, shall have filed all orders, motions or applications and other documents, and shall have taken all steps reasonably necessary and desirable to initiate proceedings with a court of competent jurisdiction to implement the Plan under the CBCA, all of which orders, motions, applications and other documents shall have been approved in advance by the Purchasers.”

(b) Deleting sub-section (m) thereof in its entirety and replacing it with the following new sub-section (m):

“(m) Neither the Issuer nor the Guarantors shall make any new Investments or acquisitions of any kind, direct or indirect, except that the Issuer may purchase for nominal value Equity Interests issued by 8440522 Canada Inc. (the “Applicant”) in order to cause Applicant to become a wholly-owned subsidiary of the Issuer, provided however, that the Issuer shall not cause or permit the Applicant to own any material assets, own or possess any permits or licenses, carry on any business or create, incur, assume or permit any Indebtedness, Liens or obligations of any kind (other than obligations for taxes and other amounts owing to public authorities) unless required for purposes of implementing the Plan or Indebtedness or Liens required to be created or incurred pursuant to the terms Senior Indenture provided that any such Indebtedness or Liens created or incurred pursuant to the terms of the Senior Indenture shall also be incurred and created by the Applicant in favour of the Collateral Agent for the benefit of the Purchasers.”

2.2 Schedule D of the Note Purchase Agreement is hereby amended by inserting the following in the table therein in alphabetical order:

Applicant	13(m)
-----------	-------

ARTICLE III – CONDITIONS TO EFFECTIVENESS

3.1 This Amending Agreement shall become effective as of the first date written above upon the Issuer and the Collateral Agent receiving duly executed counterparts hereof which, when taken together, bear the authorized signatures of the Issuer, the Guarantors and of

- 3 -

each Signatory signing on behalf of the Purchasers who hold Notes in an aggregate principal amount equal to at least 66⅔% of the aggregate principal amount of Notes outstanding on such date.

ARTICLE IV - MISCELLANEOUS

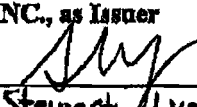
- 4.1 The execution, delivery and performance of this Amending Agreement shall not, except as expressly provided for herein, constitute an amendment of any provision of, or operate as an amendment of any right, power or remedy of the Collateral Agent under the Note Purchase Agreement or any other document.
- 4.2 On and after this date, each reference in the Note Purchase Agreement to "this Agreement" and each reference to the "Note Purchase Agreement" or similar references in the Transaction Documents and any and all other agreements, documents and instruments delivered by any of the Purchasers, the Collateral Agent, the Issuer, the Guarantors or any other Person shall mean and be a reference to the Note Purchase Agreement as amended by this Amending Agreement. Except as specifically amended by this Amending Agreement, the Note Purchase Agreement shall remain in full force and effect and is hereby ratified and confirmed.
- 4.3 This Amending Agreement shall be interpreted and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 4.4 Save as expressly amended by this Amending Agreement, all other terms and conditions of the Note Purchase Agreement remain in full force and effect.
- 4.5 This Amending Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.

[Remainder of page intentionally left blank. Signature page follows.]

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

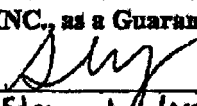
**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: _____


Name: Stewart Lyons
Title: President

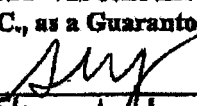
**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: _____


Name: Stewart Lyons
Title: President

**DATA & AUDIO-VISUAL ENTERPRISES
LEASING INC., as a Guarantor**

Per: _____


Name: Stewart Lyons
Title: President

[Redacted]

[Redacted]

[Redacted]

FIRST CONSENT AND WAIVER AGREEMENT

THIS AGREEMENT made as of the 26th day of March, 2013,

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

WHEREAS the parties hereto, together with Equity Financial Trust Company solely in its capacity as collateral agent, entered into a note purchase, guarantee and backstop agreement made as of February 6, 2013 (as amended by Amending Agreement No. 1 dated as of February 21, 2013, Amending Agreement No. 2 dated as of February 27, 2013, Amending Agreement No. 3 dated as of March 7, 2013 and Amending Agreement No. 4 dated as of March 19, 2013, the "Initial Agreement");

AND WHEREAS the Initial Agreement contemplates the issuance of the Subsequent Notes subject to the satisfaction of the conditions precedent set out in Section 11.2 of the Initial Agreement;

AND WHEREAS the Issuer requires the funding represented by the Subsequent Notes notwithstanding that the condition precedent set out in Section 11.2(a) of the Initial Agreement (the "Interim Order Condition") will not be fulfilled prior to the issuance thereof;

AND WHEREAS in response to the Issuer's need for funding, the Purchasers have agreed to waive the Interim Order Condition and to purchase the Subsequent Notes upon the terms and conditions contained in the Initial Agreement and this Agreement, notwithstanding that the Interim Order Condition will not have been satisfied prior to the issuance of the Subsequent Notes;

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the parties hereto hereby agree as follows:

- 2 -

1. Capitalized terms used in this Agreement and not otherwise defined will have the meanings given to them in the Initial Agreement.
2. Notwithstanding that the Interim Order Condition has not been satisfied, the Purchasers hereby agree to waive the Interim Order Condition and to purchase the Subsequent Notes, provided that each other condition precedent set out in Section 11.2 of the Initial Agreement shall have been satisfied prior to the purchase of the Subsequent Notes.
3. Failure to obtain the Interim Order on or before April 8, 2013 in accordance with the Initial Agreement shall constitute an Event of Default under the Initial Agreement.
4. Except as specifically set out in this Agreement, nothing herein shall be deemed to be a waiver, amendment or supplement of any obligation, term, condition, covenant or agreement contained in the Initial Agreement and the Initial Agreement shall otherwise remain in full force and effect, subject to the terms of this Agreement, and is hereby ratified and confirmed.
5. This Agreement shall constitute a Transaction Document for the purposes of the Initial Agreement.
6. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

[remainder of page intentionally left blank]

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

[Redacted]

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

[Redacted]

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

[Redacted]

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

[Redacted]

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: _____

Name: Stewart Lyons

Title: President

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: _____

Name: Stewart Lyons

Title: President

**DATA & AUDIO-VISUAL ENTERPRISES
LEASING INC., as a Guarantor**

Per: _____

Name: Stewart Lyons

Title: President

6187316

**AMENDING AGREEMENT NO.5 TO NOTE PURCHASE, GUARANTEE AND
BACKSTOP AGREEMENT
15.5% Senior Secured Notes**

THIS AMENDING AGREEMENT NO.5 made as of the 8th day of April, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

WHEREAS the Issuer and the Guarantors are party to that certain note purchase, guarantee and backstop agreement dated as of February 6, 2013 together with Equity Financial Trust Company, as collateral agent (the "Collateral Agent") and the purchasers party thereto (as amended by the Amending Agreement No.1 to Note Purchase, Guarantee and Backstop Agreement dated as of February 21, 2013, the Amending Agreement No.2 to Note Purchase, Guarantee and Backstop Agreement dated as of February 27, 2013, the Amending Agreement No.3 to Note Purchase, Guarantee and Backstop Agreement dated as of March 7, 2013, the Amending Agreement No.4 to Note Purchase, Guarantee and Backstop Agreement dated as of March 19, 2013 and the First Consent, Waiver and Amendment Agreement dated as of March 26, 2013 (the "First Consent, Waiver and Amendment Agreement"), the "Note Purchase Agreement");

AND WHEREAS the parties have agreed to further amend certain provisions of the Note Purchase Agreement and the First Consent, Waiver and Amendment Agreement, specified herein (the "Specified Provisions"), but only to the extent and subject to the limitations set forth herein;

AND WHEREAS pursuant to Section 5.1 and Section 21.6 of the Note Purchase Agreement, the Specified Provisions may be amended with the consent of the Required Purchasers, the Issuer and the Guarantors;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

ARTICLE I - INTERPRETATION

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Note Purchase Agreement.

ARTICLE II - AMENDMENTS

- 2.1 Section 13 of the Note Purchase Agreement is hereby amended by deleting sub-sections (c) and (d) thereof in their entirety and replacing them with the following new sub-sections (c) and (d):

"(c) As soon as practicable following the Initial Closing Date, and in any event on or before April 25, 2013, the Issuer and/or the Guarantors shall have, in consultation with and with the prior approval of the Purchasers, completed all corporate action necessary to commence proceedings under the CBCA in order to implement the Plan.

(d) As soon as practicable following the Initial Closing Date, and in any event on or before April 25, 2013, shall have filed all orders, motions or applications and other documents, and shall have taken all steps reasonably necessary and desirable to initiate proceedings with a court of competent jurisdiction to implement the Plan under the CBCA, all of which orders, motions, applications and other documents shall have been approved in advance by the Purchasers."

- 2.2 Section 3 of the First Consent, Waiver and Amendment Agreement is hereby amended by deleting "April 8, 2013" therein and replacing same with "April 26, 2013".

ARTICLE III - CONDITIONS TO EFFECTIVENESS

- 3.1 This Amending Agreement shall become effective as of the first date written above upon the Issuer and the Collateral Agent receiving duly executed counterparts hereof which, when taken together, bear the authorized signatures of the Issuer, the Guarantors and of each Signatory signing on behalf of the Purchasers who hold Notes in an aggregate principal amount equal to at least 66⅔% of the aggregate principal amount of Notes outstanding on such date.

ARTICLE IV - MISCELLANEOUS

- 4.1 The execution, delivery and performance of this Amending Agreement shall not, except as expressly provided for herein, constitute an amendment of any provision of, or operate as an amendment of any right, power or remedy of the Collateral Agent under the Note Purchase Agreement or any other document.
-

- 4.2 On and after this date, each reference in the Note Purchase Agreement to "this Agreement" and each reference to the "Note Purchase Agreement" or similar references in the Transaction Documents and any and all other agreements, documents and instruments delivered by any of the Purchasers, the Collateral Agent, the Issuer, the Guarantors or any other Person shall mean and be a reference to the Note Purchase Agreement as amended by this Amending Agreement. Except as specifically amended by this Amending Agreement, the Note Purchase Agreement shall remain in full force and effect and is hereby ratified and confirmed.
- 4.3 This Amending Agreement shall be interpreted and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 4.4 Save as expressly amended by this Amending Agreement, all other terms and conditions of the Note Purchase Agreement remain in full force and effect.
- 4.5 This Amending Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.

[Remainder of page intentionally left blank. Signature page follows.]

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: _____

Name: _____
Title: _____

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: _____

Name: _____
Title: _____

**DATA & AUDIO-VISUAL ENTERPRISES
LEASING INC., as a Guarantor**

Per: _____

Name: _____
Title: _____

[Redacted]

[Redacted]

[Redacted]

[Redacted]

SECOND CONSENT, WAIVER AND AMENDMENT AGREEMENT

THIS AGREEMENT made as of the 24th day of April, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

WHEREAS the parties hereto, together with Equity Financial Trust Company solely in its capacity as collateral agent, entered into a note purchase, guarantee and backstop agreement made as of February 6, 2013 (as amended by Amending Agreement No. 1 dated as of February 21, 2013, Amending Agreement No. 2 dated as of February 27, 2013, Amending Agreement No. 3 dated as of March 7, 2013, Amending Agreement No. 4 dated as of March 19, 2013, a First Consent, Waiver and Amendment Agreement dated as of March 26, 2013 (the "First Consent") and Amending Agreement No.5 dated as of April 8, 2013 the "Initial Agreement");

AND WHEREAS the Initial Agreement contemplates the issuance of the Final Notes subject to the satisfaction of the conditions precedent set out in Section 11.3 of the Initial Agreement;

AND WHEREAS the Issuer requires the funding represented by the Final Notes notwithstanding that the condition precedent set out in Section 11.3(a) of the Initial Agreement (the "Final Order Condition") will not be fulfilled prior to the issuance thereof;

AND WHEREAS in response to the Issuer's need for funding, the Purchasers have agreed to waive the Final Order Condition and to purchase the Final Notes upon the terms and conditions contained in the Initial Agreement and this Agreement, notwithstanding that the Final Order Condition will not have been satisfied prior to the issuance of the Final Notes;

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the parties hereto hereby agree as follows:

1. Capitalized terms used in this Agreement and not otherwise defined will have the meanings given to them in the Initial Agreement.
2. Notwithstanding that the Final Order Condition has not been satisfied, the Purchasers hereby agree to waive the Final Order Condition and to purchase the Final Notes within three (3) Business Days following confirmation that the mailing of Plan materials has been completed pursuant to the Interim Order which shall be acceptable to the Purchasers, provided that the following conditions precedent have been satisfied:
 - (a) on or prior to April 25, 2013, the Issuer and the Guarantors shall have appointed a chief restructuring officer who shall be acceptable to the Purchasers;
 - (b) the Issuer and the Guarantors shall have delivered to the Purchasers an updated cash flow forecast for the period from May 1, 2013 until August 31, 2013, which shall be acceptable to the Purchasers (the "Updated Cash Flow Forecast");
 - (c) all of the expenses of each of the Collateral Agent and the Purchasers incurred up to and including the Final Closing Date in connection with the Notes, including, without limitation, reasonable and documented legal fees of counsel to the Collateral Agent, the Purchasers and conflict counsel to the Senior Notcholder shall have been paid in full;
 - (d) except as set forth in Schedule "A" attached hereto, all representations and warranties contained in the Initial Agreement remain true and correct as of the Final Closing Date; and
 - (e) each other condition precedent set out in Section 11.3 of the Initial Agreement shall have been satisfied prior to the purchase of the Final Notes.
3. Section 8.1 of the Initial Agreement is hereby amended by deleting "May 30, 2013" in clause (iii) therein and replacing same with "May 31, 2013".
4. Failure to obtain the Final Order on or before May 31, 2013 in accordance with the Initial Agreement shall constitute an Event of Default under the Initial Agreement.
5. On and after the date hereof, each reference to the Cash Flow Forecast in the Initial Agreement, other than each reference in Sections 11.1(m), 11.1(n), 11.2(b) and 11.3(b), shall be a reference to the Updated Cash Flow Forecast (as defined herein).
6. The Purchasers hereby confirm and agree that notwithstanding any other Transaction Document, the Issuer and the Guarantors shall not be required to deliver, or cause to be delivered, any other Support Agreements as a condition to the issuance of the Final Notes and any requirement to deliver any such Support Agreements contained in any other Transaction Document is hereby waived.
7. The Purchasers hereby confirm and agree that, notwithstanding the covenants contained in Sections 13(s), 13(t) and 13(u) of the Initial Agreement, Holdings shall be permitted to enter into the CRO Letter Agreement (as defined in Schedule A hereto) and to perform its

obligations thereunder, including payment of fees and other amounts, solely to the extent required to be paid in accordance with the CRO Letter Agreement.

8. Except as specifically set out in this Agreement, nothing herein shall be deemed to be a waiver, amendment or supplement of any obligation, term, condition, covenant or agreement contained in the Initial Agreement and the Initial Agreement shall otherwise remain in full force and effect, subject to the terms of this Agreement, and is hereby ratified and confirmed.
9. On and after this date, each reference in the Initial Agreement to "this Agreement" and each reference to the "Note Purchase Agreement", the "NPA" or similar references in the Transaction Documents and any and all other agreements, documents and instruments delivered by any of the Purchasers, the Collateral Agent, the Issuer, the Guarantors or any other Person shall mean and be a reference to the Initial Agreement as amended by the First Consent and this Agreement. Except as specifically amended by the First Consent and this Agreement, the Initial Agreement shall remain in full force and effect and is hereby ratified and confirmed.
10. This Agreement shall constitute a Transaction Document for the purposes of the Initial Agreement. This Agreement shall become effective as of the first date written above upon the Issuer and the Collateral Agent receiving duly executed counterparts hereof which, when taken together, bear the authorized signatures of the Issuer, the Guarantors and of each Signatory signing on behalf of all the Purchasers who hold Notes outstanding on such date.
11. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.

This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

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

[Redacted]

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

[Redacted]

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

[Redacted]

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

[Redacted]

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: _____

Name: _____

Title: _____

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: _____

Name: _____

Title: _____

**DATA & AUDIO-VISUAL ENTERPRISES
LEASING INC., as a Guarantor**

Per: _____

Name: _____

Title: _____

SCHEDULE "A"

EXCEPTIONS TO REPRESENTATIONS AND WARRANTIES

Section 12(h)	Torys LLP has issued an invoice for \$158,439.74 to the Issuer and the Guarantors in connection with legal services performed by Torys LLP on behalf of TD Securities Inc. in connection with a proposed initial public offering. The proposed initial public offering was not completed. As such, when the Cash Flow Forecast was delivered in connection with the Initial Closing, the Issuer and the Guarantors believed that no amounts were payable to Torys LLP by the Issuer and the Guarantors in connection with such legal services and were not aware that Torys LLP believed otherwise. The Issuer and the Guarantors remain of the view that no amounts are payable to Torys LLP in connection with such legal services.
Section 12(m)	The following directors, senior officers or senior managers have resigned since February 6, 2013 or are expected to resign prior to May 30, 2013: [Redacted]
Sections 12(l) and 12(n)	Retention bonuses were offered by the Issuer to 18 employees between April 15, 2013 and April 17, 2013 in an aggregate amount of \$354,500. Payment of such retention bonuses was approved by the Purchasers on April 11, 2013. These retention bonuses are not payable until July 31, 2013.
Section 12(x)	Torys LLP has issued an invoice for \$158,439.74 to the Issuer and the Guarantors in connection with legal services performed by Torys LLP on behalf of TD Securities Inc. in connection with a proposed initial public offering. The proposed initial public offering was not completed. As such, when the Cash Flow Forecast was delivered in connection with the Initial Closing, the Issuer and the Guarantors believed that no amounts were payable to Torys LLP by the Issuer and the Guarantors in connection with such legal services and were not aware that Torys LLP believed otherwise. The Issuer and the Guarantors remain of the view that no amounts are payable to Torys LLP in connection with such legal services.
Sections 12(n), (o), (p) and (q)	Holdings entered into a letter agreement dated April 24, 2013 with BlueTree Advisors II Inc. (the "CRO Letter Agreement"), pursuant to which BlueTree Advisors II Inc. agreed to provide the services of William E. Aziz as an independent contractor to provide the services specified in the CRO

	Letter Agreement, including to serve as the Chief Restructuring Officer of Holdings. Pursuant to the CRO Letter Agreement, Holdings has agreed to pay such fees, bonus entitlements and other amounts required to be paid by it in accordance with the terms of the CRO Letter Agreement.
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DOCSTOR: 268961318

THIRD CONSENT, WAIVER AND AMENDMENT AGREEMENT

THIS AGREEMENT made as of the 15th day of May, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

WHEREAS the parties hereto, together with Equity Financial Trust Company solely in its capacity as collateral agent, entered into a note purchase, guarantee and backstop agreement made as of February 6, 2013 (as amended by Amending Agreement No. 1 dated as of February 21, 2013, Amending Agreement No. 2 dated as of February 27, 2013, Amending Agreement No. 3 dated as of March 7, 2013, Amending Agreement No. 4 dated as of March 19, 2013, a First Consent, Waiver and Amendment Agreement dated as of March 26, 2013, Amending Agreement No. 5 dated as of April 8, 2013 and a Second Consent, Waiver and Amendment Agreement dated as of April 24, 2013, the "Initial Agreement");

AND WHEREAS the Issuer has advised that Data & Audio-Visual Enterprises Leasing Inc. ("Leasing") intends to amalgamate with the Issuer to form Mobilicity Wireless Inc. (the "Amalgamation");

AND WHEREAS Section 13(k) of the Initial Agreement requires the prior written consent of the Required Purchasers in order to permit the Amalgamation;

AND WHEREAS the Issuer has also requested that the definition of Maturity Date in the Initial Agreement be amended to provide that the Notes will be repayable in full on the date which is the earlier of certain events specified in Section 8.1 of the Initial Agreement and June 30, 2013 (the "Requested Amendment");

AND WHEREAS the Purchasers have agreed to consent to the Amalgamation and the Requested Amendment;

NOW THEREFORE, in consideration of the foregoing and for good and valuable consideration, the receipt and sufficiency of which are hereby irrevocably acknowledged, the parties hereto hereby agree as follows:

1. Capitalized terms used in this Agreement and not otherwise defined will have the meanings given to them in the Initial Agreement.
2. The Purchasers hereby consent to the Amalgamation.
3. Within one Business Day of the Amalgamation becoming effective, Data & Audio-Visual Enterprises Holdings Inc. shall cause Mobilicity Wireless Inc. ("SubAmalco") to execute and deliver to the Purchasers a confirmation agreement in form and substance satisfactory to the Purchasers, acting reasonably, pursuant to which SubAmalco will confirm that it has assumed all of the obligations of (i) the Issuer pursuant to the Initial Agreement, the Notes, the Security Documents to which the Issuer is a party and the other Transaction Documents to which the Issuer is a party, and (ii) Leasing pursuant to the Initial Agreement (other than the obligations under Section 16 thereof), the Security Documents to which Leasing is a party and the other Transaction Documents to which Leasing is a party.
4. Failure to deliver the Confirmation Agreement within one Business Day of the Amalgamation becoming effective shall constitute an Event of Default under the Initial Agreement.
5. Section 8.1 of the Initial Agreement is hereby amended by deleting "May 31, 2013" in clause (iii) therein and replacing same with "June 30, 2013".
6. Except as specifically set out in this Agreement, nothing herein shall be deemed to be a waiver, amendment or supplement of any obligation, term, condition, covenant or agreement contained in the Initial Agreement and the Initial Agreement shall otherwise remain in full force and effect, subject to the terms of this Agreement, and is hereby ratified and confirmed.
7. On and after this date, each reference in the Initial Agreement to "this Agreement" and each reference to the "Note Purchase Agreement", the "NPA" or similar references in the Transaction Documents and any and all other agreements, documents and instruments delivered by any of the Purchasers, the Collateral Agent, the Issuer, the Guarantors or any other Person shall mean and be a reference to the Initial Agreement as amended by this Agreement. Except as specifically amended by this Agreement, the Initial Agreement shall remain in full force and effect and is hereby ratified and confirmed.
8. This Agreement shall constitute a Transaction Document for the purposes of the Initial Agreement. This Agreement shall become effective as of the first date written above upon the Issuer and the Collateral Agent receiving duly executed counterparts hereof which, when taken together, bear the authorized signatures of the Issuer, the Guarantors and of each Signatory signing on behalf of all the Purchasers who hold Notes outstanding on such date.

9. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one and the same instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.
10. This Agreement is governed by, and is to be construed and interpreted in accordance with, the laws of the Province of Ontario and the laws of Canada applicable therein.

Remainder of this page is intentionally left blank

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

[Redacted]

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

[Redacted]

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

[Redacted]

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

[Redacted]

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: William E. Aziz
Name: William E. Aziz
Title: Chief Restructuring Officer

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: William E. Aziz
Name: William E. Aziz
Title: Chief Restructuring Officer

**DATA & AUDIO-VISUAL ENTERPRISES
LEASING INC., as a Guarantor**

Per: William E. Aziz
Name: William E. Aziz
Title: Chief Restructuring Officer

**FOURTH CONSENT, WAIVER AND AMENDMENT AGREEMENT TO NOTE
PURCHASE, GUARANTEE AND BACKSTOP AGREEMENT
15.5% Senior Secured Notes**

THIS AGREEMENT made as of the 31st day of May, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

WHEREAS the parties hereto, together with Equity Financial Trust Company solely in its capacity as collateral agent, entered into a note purchase, guarantee and backstop agreement made as of February 6, 2013 (as amended by Amending Agreement No. 1 dated as of February 21, 2013, Amending Agreement No. 2 dated as of February 27, 2013, Amending Agreement No. 3 dated as of March 7, 2013, Amending Agreement No. 4 dated as of March 19, 2013, a First Consent, Waiver and Amendment Agreement dated as of March 26, 2013, Amending Agreement No. 5 dated as of April 8, 2013, a Second Consent, Waiver and Amendment Agreement dated as of April 24, 2013 and a Third Consent, Waiver and Amendment Agreement dated as of May 15, 2013, the "Initial Agreement");

AND WHEREAS, pursuant to the terms of the Senior Unsecured Indenture, Holdings is required to issue certain warrants convertible into Equity Securities of Holdings on or about June 17, 2013 (the "New Warrant Issuance");

AND WHEREAS the New Warrant Issuance is prohibited pursuant to section 13(i) of the Initial Agreement;

AND WHEREAS the Purchasers have agreed to consent to the New Warrant Issuance, but in each case only to the extent and subject to the limitations set forth herein;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

ARTICLE I – INTERPRETATION

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Initial Agreement.

ARTICLE II – CONSENT AND WAIVER

- 2.1 Notwithstanding Section 13(i) of the Initial Agreement, the Purchasers hereby consent to the New Warrant Issuance.

ARTICLE III – CONDITIONS TO EFFECTIVENESS

- 3.1 This Agreement shall become effective as of the first date written above upon the parties hereto receiving duly executed counterparts hereof which, when taken together, bear the authorized signatures of the Issuer, the Guarantors and of each Signatory signing on behalf of the Purchasers who hold Notes in an aggregate principal amount equal to at least 66%% of the aggregate principal amount of Notes outstanding on such date.

ARTICLE IV – MISCELLANEOUS

- 4.1 The execution, delivery and performance of this Agreement shall not, except as expressly provided for herein, constitute an amendment or waiver of any provision of, or operate as an amendment or waiver of any right, power or remedy of the Collateral Agent under the Initial Agreement or any other document.
- 4.2 On and after this date, each reference in the Initial Agreement to “this Agreement” and each reference to the “Note Purchase Agreement” or similar references in the Transaction Documents and any and all other agreements, documents and instruments delivered by any of the Purchasers, the Collateral Agent, the Issuer, the Guarantors or any other Person shall mean and be a reference to the Initial Agreement as amended by this Agreement. Except as specifically amended by this Agreement, the Initial Agreement shall remain in full force and effect and is hereby ratified and confirmed.
- 4.3 This Agreement shall be interpreted and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 4.4 Save as expressly amended by this Agreement, all other terms and conditions of the Initial Agreement remain in full force and effect.
- 4.5 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.

[Remainder of page intentionally left blank. Signature page follows.]

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: William E. Aziz
Name: WILLIAM E. AZIZ
Title: CRO

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: William E. Aziz
Name: WILLIAM E. AZIZ
Title: CRO

[Redacted]

[Redacted]

[Redacted]

[Redacted]

10215342

**FIFTH AMENDMENT AGREEMENT TO NOTE PURCHASE, GUARANTEE AND
BACKSTOP AGREEMENT
15.5% Senior Secured Notes**

THIS AGREEMENT made as of the 30th day of June, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the "Issuer")

- and -

All guarantors listed on the signature pages hereto as "Guarantors",
together with their successors and assigns
(collectively, the "Guarantors")

- and -

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

WHEREAS the parties hereto, together with Equity Financial Trust Company solely in its capacity as collateral agent, entered into a note purchase, guarantee and backstop agreement made as of February 6, 2013 (as amended by Amending Agreement No. 1 dated as of February 21, 2013, Amending Agreement No. 2 dated as of February 27, 2013, Amending Agreement No. 3 dated as of March 7, 2013, Amending Agreement No. 4 dated as of March 19, 2013, a First Consent, Waiver and Amendment Agreement dated as of March 26, 2013, Amending Agreement No. 5 dated as of April 8, 2013, a Second Consent, Waiver and Amendment Agreement dated as of April 24, 2013, a Third Consent, Waiver and Amendment Agreement dated as of May 15, 2013 and a Fourth Consent, Waiver and Amendment Agreement dated as of May 31, 2013, the "Initial Agreement");

AND WHEREAS the parties have agreed to further amend certain provisions of the Initial Agreement, but in each case only to the extent and subject to the limitations set forth herein;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

ARTICLE I - INTERPRETATION

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Initial Agreement.

ARTICLE II - AMENDMENT

- 2 -

- 2.1 Section 8.1 of the Initial Agreement is hereby amended by deleting "June 30, 2013" in clause (iii) therein and replacing same with "July 10, 2013".

ARTICLE III – CONDITIONS TO EFFECTIVENESS

- 3.1 This Agreement shall become effective as of the first date written above upon the parties hereto receiving duly executed counterparts hereof which, when taken together, bear the authorized signatures of the Issuer, the Guarantors and of each Signatory signing on behalf of all Purchasers who hold Notes outstanding on such date.

ARTICLE IV – MISCELLANEOUS

- 4.1 The execution, delivery and performance of this Agreement shall not, except as expressly provided for herein, constitute an amendment or waiver of any provision of, or operate as an amendment or waiver of any right, power or remedy of the Collateral Agent under the Initial Agreement or any other document.
- 4.2 On and after this date, each reference in the Initial Agreement to "this Agreement" and each reference to the "Note Purchase Agreement" or similar references in the Transaction Documents and any and all other agreements, documents and instruments delivered by any of the Purchasers, the Collateral Agent, the Issuer, the Guarantors or any other Person shall mean and be a reference to the Initial Agreement as amended by this Agreement. Except as specifically amended by this Agreement, the Initial Agreement shall remain in full force and effect and is hereby ratified and confirmed.
- 4.3 This Agreement shall be interpreted and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 4.4 Save as expressly amended by this Agreement, all other terms and conditions of the Initial Agreement remain in full force and effect.
- 4.5 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.

[Remainder of page intentionally left blank. Signature page follows.]

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per:

William J. Qj

Name:

Title:

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per:

William J. Qj

Name:

Title:

[Redacted]

[Redacted]

[Redacted]

[Redacted]

DOCID: 27484092

**SIXTH AMENDMENT AGREEMENT TO NOTE PURCHASE, GUARANTEE AND
BACKSTOP AGREEMENT
15.5% Senior Secured Notes**

THIS AGREEMENT made as of the 10th day of July, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the “**Issuer**”)

- and -

All guarantors listed on the signature pages hereto as “**Guarantors**”,
together with their successors and assigns
(collectively, the “**Guarantors**”)

- and -

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

WHEREAS the parties hereto, together with Equity Financial Trust Company solely in its capacity as collateral agent, entered into a note purchase, guarantee and backstop agreement made as of February 6, 2013 (as amended by Amending Agreement No. 1 dated as of February 21, 2013, Amending Agreement No. 2 dated as of February 27, 2013, Amending Agreement No. 3 dated as of March 7, 2013, Amending Agreement No. 4 dated as of March 19, 2013, a First Consent, Waiver and Amendment Agreement dated as of March 26, 2013, Amending Agreement No. 5 dated as of April 8, 2013, a Second Consent, Waiver and Amendment Agreement dated as of April 24, 2013, a Third Consent, Waiver and Amendment Agreement dated as of May 15, 2013, a Fourth Consent, Waiver and Amendment Agreement dated as of May 31, 2013 and a Fifth Amendment Agreement to Note Purchase, Guarantee and Backstop Agreement dated June 30, 2013, the “**Initial Agreement**”);

AND WHEREAS the parties have agreed to further amend certain provisions of the Initial Agreement, but in each case only to the extent and subject to the limitations set forth herein;

NOW THEREFORE for good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the parties hereby agree as follows:

ARTICLE I – INTERPRETATION

- 1.1 All capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to such terms in the Initial Agreement.

ARTICLE II – AMENDMENT

- 2.1 Section 8.1 of the Initial Agreement is hereby amended by deleting “July 10, 2013” in clause (iii) therein and replacing same with “September 30, 2013”.

ARTICLE III – CONDITIONS TO EFFECTIVENESS

- 3.1 This Agreement shall become effective as of the first date written above upon the parties hereto receiving duly executed counterparts hereof which, when taken together, bear the authorized signatures of the Issuer, the Guarantors and of each Signatory signing on behalf of all Purchasers who hold Notes outstanding on such date.

ARTICLE IV – MISCELLANEOUS

- 4.1 The execution, delivery and performance of this Agreement shall not, except as expressly provided for herein, constitute an amendment or waiver of any provision of, or operate as an amendment or waiver of any right, power or remedy of the Collateral Agent under the Initial Agreement or any other document.
- 4.2 On and after this date, each reference in the Initial Agreement to “this Agreement” and each reference to the “Note Purchase Agreement” or similar references in the Transaction Documents and any and all other agreements, documents and instruments delivered by any of the Purchasers, the Collateral Agent, the Issuer, the Guarantors or any other Person shall mean and be a reference to the Initial Agreement as amended by this Agreement. Except as specifically amended by this Agreement, the Initial Agreement shall remain in full force and effect and is hereby ratified and confirmed.
- 4.3 This Agreement shall be interpreted and the rights and liabilities of the parties hereto shall be determined in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 4.4 Save as expressly amended by this Agreement, all other terms and conditions of the Initial Agreement remain in full force and effect.
- 4.5 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.

[Remainder of page intentionally left blank. Signature page follows.]

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

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

DOOSTOR: 27583173

Signature Page to Sixth Amendment Agreement to Note Purchase, Guarantee and Backstop Agreement

Exhibit “E”

Final Version

TRUST INDENTURE

AMENDED AND RESTATED AS OF THE 29th DAY OF APRIL, 2011

BETWEEN

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

AND

EQUITY FINANCIAL TRUST COMPANY

PROVIDING FOR THE ISSUE OF SENIOR UNSECURED DEBENTURES

This is Exhibit E referred to in the
affidavit of William A. 12
sworn before me, this 29th
day of September 2013
Ackermann
A COMMISSIONER FOR TAKING AFFIDAVITS

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THIS INDENTURE amended and restated as of the 29th day of April, 2011.

BETWEEN;

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC., a corporation incorporated under the Laws of Ontario and having its head office in the City of Toronto, in the Province of Ontario (hereinafter called the "Company")

AND

EQUITY FINANCIAL TRUST COMPANY, formerly Equity Transfer & Trust Company, a trust company incorporated under the federal Laws of Canada (under the Loan and Trust Companies Act) having an office in the City of Toronto, in the Province of Ontario (hereinafter called the "Debenture Trustee")

WITNESSETH THAT:

WHEREAS the Company (as defined herein) deems it necessary for its corporate purposes to create and issue the Debentures (as defined herein) to be created and issued in the manner hereinafter appearing;

AND WHEREAS the Company is duly authorized to create and issue the Debentures to be issued as herein provided;

AND WHEREAS, when certified by the Debenture Trustee and issued as provided in this Indenture, all necessary steps in relation to the Company have been duly enacted, passed and/or confirmed and other proceedings taken and conditions complied with to make the creation and issue of the Debentures proposed to be issued hereunder legal, valid and binding on the Company in accordance with the Laws relating to the Company;

AND WHEREAS the foregoing recitals are made as representations and statements of fact by the Company and not by the Debenture Trustee;

AND WHEREAS, on December 17, 2009, the Company issued \$75 million principal amount of "Series 2009 15.0% Unsecured Subordinated Debentures due September 25, 2018" and wishes to amend the designation to "Series 2009 15.0% Senior Unsecured Debentures due September 25, 2018", and issue a further \$20 million principal amount of Debentures of the same series;

AND WHEREAS in accordance with Section 13.1 of this Indenture, the Company wishes to make certain amendments to the Indenture which in no way are prejudicial to the rights of the Debentureholders, with the Debenture Trustee relying upon an opinion of Counsel of the Company in order to make such amendments effective; and

AND WHEREAS the Company has issued the First Lien Senior Secured Notes (defined herein) in order to, among other things, refinance and payout the senior secured EKN credit facility dated October 19, 2009 entered into among, inter alia, ING Bank N.V., the Company, the Licensee and such other lending institutions that are parties thereto, as it may be amended or restated from time to time.

NOW THEREFORE it is hereby covenanted, agreed and declared as follows:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Indenture and in the Debentures, unless there is something in the subject matter or context inconsistent therewith, the expressions following shall have the following meanings, namely:

- (a) **"this Indenture", "this Trust Indenture", "hereto", "herein", "hereby", "hereunder", "hereof"** and similar expressions refer to this Indenture and not to any particular Article, Section, subsection, clause, subdivision or other portion hereof and include any and every instrument supplemental or ancillary hereto;
- (b) **"Additional Debentures"** means Debentures of any one or more series, other than the first series of Debentures being the Initial Debentures, issued under this Indenture;
- (c) **"Affiliate" or "affiliate"** means a Person which, directly or indirectly, Controls, is Controlled by, or is under common Control with, another;
- (d) **"Applicable Securities Legislation"** means applicable securities Laws (including rules, regulations, policies and instruments) in each of the provinces and territories of Canada, as applicable;
- (e) **"Bankruptcy Law"** means the Bankruptcy and Insolvency Act (Canada) or the Companies' Creditors Arrangement Act (Canada) each as amended, or any similar bankruptcy or insolvency Law, and other Laws concerning formal or informal moratoria of debt or compositions with creditors, and proceedings seeking reorganization, arrangement, or other relief of debtors;
- (f) **"Beneficial Holder"** means any Person who holds a beneficial interest in a Global Debenture as shown on the books of the Depository or a Depository Participant;
- (g) **"Business Day"** means any day other than a Saturday, Sunday or a statutory holiday in the City of Toronto, Ontario, and the Debenture Trustee is open for business;
- (h) **"B Warrant"** has the meaning ascribed thereto in Section 2.4(h)(ii);
- (i) **"CDS"** means CDS Clearing and Depository Services Inc.;
- (j) **"Canadian Legend"** has the meaning ascribed thereto in Section 2.13(a);
- (k) **"Change of Control"** occurs where any Person or group of Persons (acting in concert), other than DAVE Investments and Quadrangle, owns, directly or indirectly, more than 50% of the equity or assets of the Company or the Licensee, as the case may be;
- (l) **"Change of Control Notice"** has the meaning ascribed thereto in Section 2.4(g)(i);
- (m) **"Class B Shares"** means non-voting participating class B shares of the Company;
- (n) **"Commitment Agreement"** means the second amended and restated commitment agreement dated April 29, 2011, among the Company, Quadrangle and DAVE Investments, as it may be amended or amended and restated from time to time;
- (o) **"Common Shares"** means common shares of the Company;
- (p) **"Company"** means Data & Audio-Visual Enterprises Holdings Inc. and includes any successor to or of the Company which shall have complied with the provisions of Article 9;
- (q) **"Company's Auditors" or "Auditors of the Company"** means a nationally recognized independent firm of chartered accountants duly appointed as auditors of the Company;
- (r) **"Control"** (including, with correlative meanings, the terms Controlled by and under common Control with) means the possession of the power, in Law or in fact, to direct or cause the direction

of the management and policies of a corporation whether through legal and beneficial ownership of a majority of voting securities of such corporation, by agreement or otherwise;

- (s) **"Counsel"** means a barrister or solicitor or firm of barristers or solicitors retained or employed by the Debenture Trustee or retained or employed by the Company;
- (t) **"CW Warrant"** has the meaning ascribed thereto in Section 2.4(h)(ii);
- (u) **"DAVE Investments"** means Data & Audio-Visual Enterprises Investments Inc. and any of its Affiliates (other than the Company);
- (v) **"Debenture Liabilities"** has the meaning ascribed thereto in Section 5.1;
- (w) **"Debenture Trustee"** means Equity Financial Trust Company;
- (x) **"Debentureholders"** or **"holders"** means the Persons for the time being entered in the register for Debentures as registered holders of Debentures payable to a named payee or any transferees of such Persons, including, for greater certainty, in the case of any Global Debenture, the Depository or its nominees in whose name such Global Debenture is registered, as the case may be;
- (y) **"Debenture"** or **"Debentures"** means the debentures, notes or other evidences of indebtedness of the Company issued and certified hereunder, or deemed to be issued and certified hereunder, which are not convertible into Shares of the Company, including, without limitation, the Initial Debentures, and for the time being outstanding;
- (z) **"deemed year"** has the meaning ascribed thereto in Section 2.10(b);
- (aa) **"Defeased Debentures"** has the meaning ascribed thereto in Section 8.6(a);
- (bb) **"Depository"** means, with respect to the Debentures of any series issuable or issued in the form of one or more Global Debentures, including the Initial Debentures, the Person designated as depository by the Company pursuant to Section 3.2 until a successor depository shall have become such pursuant to the applicable provisions of this Indenture, and thereafter **"Depository"** shall mean each Person who is then a depository hereunder, and if at any time there is more than one such Person, **"Depository"** as used with respect to the Debentures of any series shall mean each depository with respect to the one or more Global Debentures of such series;
- (cc) **"Depository Participant"** means, for any Debentures, a broker, dealer, bank, other financial institution or other Person who participates directly in the book-entry registration and book-based securities transfer system administered by the Depository for such Debentures;
- (dd) **"especially affected series"** has the meaning ascribed thereto in Section 10.2(b)(i);
- (ee) **"Event of Default"** has the meaning ascribed thereto in Section 7.1;
- (ff) **"Extraordinary Resolution"** has the meaning ascribed thereto in Section 10.12(a);
- (gg) **"First Lien Senior Secured Notes"** means the 9.5% first lien senior secured notes due April 29, 2018 issued by the Licensee and guaranteed by the Company;
- (hh) **"First Lien Note Indenture"** means the trust indenture dated April 29, 2011, governing the First Lien Senior Secured Notes, as the same may be amended or amended and restated from time to time;

- (ii) **"Fully Registered Debentures"** means Debentures in the form of individual certificates in definitive fully-registered form, and which are not registered in the name of a Depository;
- (ij) **"generally accepted accounting principles"** means generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants and the International Accounting Standards Board;
- (kk) **"Global Debenture"** means a global book-entry certificate evidencing a Debenture, which will be delivered to a Depository and registered in the name of a Depository, or its nominee, pursuant to Section 2.6 for purposes of being held by or on behalf of the Depository as custodian for the Depository Participants;
- (ll) **"Governmental Entity"** means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any court and any government agency, board, commission, tribunal or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government;
- (mm) **"Indebtedness"** of any Person means, without duplication, (i) all obligations of such Person, however incurred, including obligations for borrowed money; (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances, derivatives or other financial products; (iii) all obligations of such Person as a lessee under any capital or similar type leases; (iv) all obligations or liabilities of others secured by a Lien on any asset of such Person, irrespective of whether such obligation or liability is assumed; (v) all obligations of such Person to pay the deferred purchase price of assets; (vi) all obligations of such Person owing under hedge or similar type agreements; and (vii) all obligations of such Person guaranteeing or intended to guarantee (whether directly or indirectly guaranteed, indemnified, endorsed, co-made, discounted, or sold with recourse) any obligation of any other Person that constitutes Indebtedness of such other Person under any of clauses (i) through (vi) above;
- (nn) **"Initial Debentures"** means the Debentures designated as "Series 2009 15.0% Senior Unsecured Debentures due September 25, 2018" and described in Section 2.4;
- (oo) **"Initial Debenture Interest Obligation"** has the meaning ascribed thereto in Section 2.4(c);
- (pp) **"Initial Debenture Interest Payment Date"** has the meaning ascribed thereto in Section 2.4(c);
- (qq) **"Initial Debenture Interest Payment Notice"** has the meaning ascribed thereto in Section 2.4(c)(ii)(A);
- (rr) **"Initial Debenture Maturity Date"** has the meaning ascribed thereto in Section 2.4(b);
- (ss) **"Initial Debenture Payment Amount"** has the meaning ascribed thereto in Section 2.4(b);
- (tt) **"Initial Debenture Redeemed Interest Amount"** has the meaning ascribed thereto in Section 2.4(c)(iii);
- (uu) **"Initial Debenture Redemption Price A"** has the meaning ascribed thereto in Section 2.4(d);
- (vv) **"Initial Debenture Redemption Price B"** has the meaning ascribed thereto in Section 2.4(d);
- (ww) **"Interest Payment Date"** means a date specified in a Debenture as the date on which an instalment of interest on such Debenture shall become due and payable;

- (xx) "IPO" means (i) the first registration or qualification of equity or equity-like securities of the Company or any of its Subsidiaries under a prospectus, for which a final receipt has been granted by the applicable securities regulatory authority, (ii) any transaction or series of transaction, involving an acquisition by the Company (or any Subsidiary) or of the Company (or any Subsidiary), and an equity or equity-like security issuance by the Company or such Subsidiary, that results in the Company or such Subsidiary becoming a reporting issuer (as such term is defined in Applicable Securities Legislation) in Canada, or the equivalent in a foreign jurisdiction.
- (yy) "IPO Date" means the closing date of the IPO;
- (zz) "IPO Price" means the price of the IPO Shares sold or issued to the public pursuant to the IPO;
- (aaa) "IPO Shares" means shares that are sold or issued to the public pursuant to the IPO;
- (bbb) "Issue Date" has the meaning ascribed thereto in Section 2.4(h)(i);
- (ccc) "Laws" means applicable (i) Laws, constitutions, treaties, statutes, codes, ordinances, statutory rules, principles of common and civil Law and equity, terms and conditions of any grant of approval, permission, orders, decrees, rules, regulations and municipal by-Laws, whether domestic, foreign or international; (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, rulings, authority, licence, decrees and awards of any Governmental Entity (including the Securities Regulatory Authorities); and (iii) policies, practices and guidelines of any Governmental Entity (including the Securities Regulatory Authorities), which, although not actually having the force of Law, are considered by such Governmental Entity as requiring compliance as if having the force of Law, in each case binding on or affecting the Person, or the assets of the Person, referred to in the context in which such word is used, and the term "applicable" with respect to such Laws and in the context that refers to one or more Persons, means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Governmental Entity (including the Securities Regulatory Authorities) having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities, in each case as such Laws may be amended from time to time;
- (ddd) "Licensee" means Data & Audio-Visual Enterprises Wireless Inc., the licensee of certain spectrum from Industry Canada, or any assignee of such licensee which is an Affiliate of the Company;
- (eee) "Lien" means any lien, mortgage, charge, hypothec, encumbrance, security interest, pledge, hypothecation, deposit arrangement, priority, conditional sale agreement, other title retention agreement, lease intended as security or which secures payment or performance of an obligation, or other security agreement or instrument;
- (fff) "Liquidity Event" means the earlier of: (i) the consummation of an IPO, or (ii) the occurrence of a Change of Control, provided such Change of Control results in any Person or group of Persons (acting in concert), other than DAVE Investments and Quadrangle, owning, directly or indirectly, all or substantially all of the equity or assets of the Company or the Licensee, as the case may be
- (ggg) "LVTS" has the meaning ascribed thereto in Section 2.12;
- (hhh) "Maturity Account" means an account or accounts required to be established by the Company (and which shall be maintained by and subject to the control of the Debenture Trustee) for each series of Debentures pursuant to and in accordance with this Indenture;
- (iii) "Maturity Date" means a date specified in a debenture as the date on which such debenture matures;

- (jjj) "OBCA" has the meaning ascribed thereto in Section 12.9;
- (kkk) "Offer" has the meaning ascribed thereto in Section 2.4(g)(i);
- (lll) "Offer Price" has the meaning ascribed thereto in Section 2.4(g)(i);
- (mmm) "Officer's Certificate" means a certificate of the Company signed by any one authorized officer or director of the Company, in his or her capacity as an officer or director of the Company and not in his or her personal capacity;
- (nnn) "Payment Amount" means, in respect of a debenture, an amount equal to the principal amount of such debenture, together with any amount of interest added to such principal amount on an Interest Payment Date in accordance with the terms of such debenture;
- (ooo) "Periodic Offering" means an offering of Debentures of a series from time to time, the specific terms of which Debentures, including, without limitation, the rate or rates of interest, if any, thereon, the stated maturity or maturities thereof and the redemption provisions, if any, with respect thereto, are to be determined by the Company upon the issuance of such Debentures from time to time;
- (ppp) "Person" means any individual, partnership, limited partnership, association, body corporate, trust, joint venture, trustee, executor, administrator, legal representative, government, regulatory authority or other entity;
- (qqq) "Quadrangle" means QCP CW S.A.R.L. and any of its Affiliates;
- (rrr) "Recognized Stock Exchange" means the Toronto Stock Exchange or if the Shares are not listed on the Toronto Stock Exchange, any other stock exchange on which the Shares are then listed and posted for trading;
- (sss) "Redemption Date" has the meaning ascribed thereto in Section 4.3;
- (ttt) "Redemption Notice" has the meaning ascribed thereto in Section 4.3;
- (uuu) "Redemption Price" means, in respect of a Debenture, the amount payable on the Redemption Date fixed for such Debenture, including any accrued and unpaid interest to but excluding the Redemption Date, and in respect of the Initial Debentures, Initial Debenture Redemption Price A or Initial Debenture Redemption Price B, as applicable;
- (vvv) "Register" means the register referred to in Section 3.1(a) or Section 3.2(a), as the case may be;
- (www) "Regulation S" means Regulation S adopted by the United States Securities and Exchange Commission under the 1933 Act;
- (xxx) "Securities Regulatory Authorities" means collectively, the provincial and territorial securities regulatory authority in each of the provinces and territories of Canada, and the Toronto Stock Exchange;
- (yyy) "Senior Creditor" means a holder or holders of Senior Indebtedness and includes any representative or representatives or trustee or trustees of any such holder or holders;
- (zzz) "Senior Indebtedness" means all Indebtedness owing by the Company from time to time (i) under the First Lien Note Indenture, (ii) under all other existing and future instruments of the Company which is secured in any manner by any Liens of any kind, contingent or absolute, (iii) that is senior Indebtedness by operation of applicable Laws, or (iv) renewals, extensions, refinancings or

refundings of any such Indebtedness referred to in items (i)-(iii) above; for greater certainty, other than any Indebtedness that is Senior Indebtedness pursuant to items (i)-(iv) above, the following, as applicable, shall rank *pari passu* with the Indebtedness hereunder (A) any obligation of the Company to any Subsidiary of the Company, or of such Subsidiary to the Company or any other Subsidiary of the Company (in each case, not including any obligations pursuant to the First Lien Note Indenture), (B) any liability for federal, state, provincial, local or other taxes owed or owing by the Company, (C) any accounts payable or other liability to trade creditors arising in the ordinary course of business which is not secured (including guarantees thereof or instruments evidencing such liabilities), and (D) any Indebtedness of the Company which ranks (or is intended to rank) *pari passu* with the Indebtedness hereunder;

- (aaaa) "Senior Security" means all Liens any kind, contingent or absolute, held by or on behalf of any Senior Creditor and in any manner securing any Senior Indebtedness;
- (bbbb) "Serial Meeting" has the meaning ascribed thereto in Section 10.2(b)(i);
- (cccc) "Spectrum Licenses" means each of the AWS spectrum licenses issued, under the authority of the Minister of Industry Canada in accordance with the *Radiocommunication Act* (Canada) and the Radiocommunications Regulations, to the Company by Industry Canada on February 11, 2009;
- (dddd) "Shares" means shares in the capital of the Company;
- (eeee) "Subsidiary" means, in relation to the Company, any entity, including corporations, trusts, partnerships and limited partnerships, which are Controlled, directly or indirectly, by the Company;
- (ffff) "Successor" has the meaning ascribed thereto in Section 9.1.
- (gggg) "Tax Act" means the *Income Tax Act* (Canada), as amended from time to time;
- (hhhh) "Toronto Stock Exchange" means the Toronto Stock Exchange and any successor stock exchange thereto;
- (iiii) "trading day" means, with respect to the Toronto Stock Exchange or other market for securities, any day on which such exchange or market is open for trading or quotation;
- (jjjj) "Transfer Legend" has the meaning ascribed thereto in Section 2.13(c);
- (kkkk) "U.S. Legend" has the meaning ascribed thereto in Section 2.13(b);
- (llll) "United States" means the United States of America, its territories and possessions, any state of the United States and the District of Columbia;
- (mmmm) "Warrant" or "Warrants" has the meaning ascribed thereto in Section 2.4(h)(ii);
- (nnnn) "Wireless Business" means the business of providing two-way wireless voice communications and voice telephony services in Canada;
- (oooo) "Written Direction of the Company" means an instrument in writing signed by any one authorized director or officer of the Company;
- (pppp) "1933 Act" means the *United States Securities Act* of 1933, as amended; and
- (qqqq) "90% Redemption Right" has the meaning ascribed thereto in Section 2.4(g)(ii).

1.2 Meaning of "Outstanding"

Every Debenture certified and delivered by the Debenture Trustee hereunder shall be deemed to be outstanding until it is cancelled, redeemed or repurchased to the Debenture Trustee for cancellation, redemption, repurchase or monies in respect of which the payment thereof shall have been set aside under Section 8.2, provided that:

- (a) Debentures which have been partially redeemed or purchased shall be deemed to be outstanding only to the extent of the unredeemed or unpurchased part of the principal amount thereof;
- (b) when a new Debenture has been issued in substitution for a Debenture which has been lost, stolen or destroyed, only one of such Debentures shall be counted for the purpose of determining the aggregate principal amount of Debentures outstanding; and
- (c) for the purposes of any provision of this Indenture entitling holders of outstanding Debentures to vote, sign consents, requisitions or other instruments or take any other action under this Indenture, or to constitute a quorum of any meeting of Debentureholders, Debentures owned directly or indirectly, legally or equitably, by the Company or any affiliate of the Company shall be disregarded except that for the purpose of determining whether the Debenture Trustee shall be protected in relying on any such vote, consent, requisition or other instrument or action, or on the holders of Debentures present or represented at any meeting of Debentureholders, only the Debentures which the Debenture Trustee knows are so owned shall be so disregarded.

1.3 Interpretation

In this Indenture:

- (a) words importing the singular number or masculine gender shall include the plural number or the feminine or neuter genders, and vice versa;
- (b) all references to Articles and Schedules refer, unless otherwise specified, to articles of and schedules to this Indenture;
- (c) all references to Sections refer, unless otherwise specified, to sections, subsections or clauses of this Indenture; and
- (d) words and terms denoting inclusiveness (such as "include" or "includes" or "including"), whether or not so stated, are not limited by and do not imply limitation of their context or the words or phrases which precede or succeed them.

1.4 Headings, Etc.

The division of this Indenture into Articles and Sections, the provision of a Table of Contents and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Indenture or of the Debentures.

1.5 Day not a Business Day

In the event that any calendar day on or before which any action required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding calendar day that is a Business Day.

1.6 Applicable Law

This Indenture and the Debentures shall be governed by and construed in accordance with the Laws of the Province of Ontario and the Laws of Canada applicable therein and shall be treated in all respects as Ontario contracts.

1.7 Monetary References

Whenever any amounts of money are referred to herein, such amounts shall be deemed to be in lawful money of Canada unless otherwise expressed.

1.8 Invalidity, Etc.

Any provision hereof which is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof.

1.9 Time of Essence

Time shall be of the essence in this Indenture.

1.10 Language

The parties acknowledge that they have requested this Indenture and all documents, notices, correspondence and legal proceedings arising from this Indenture or relating hereto be drawn up in English, but without prejudice to any documents, notices, correspondence and legal proceedings which may from time to time be drawn up in French. Les parties reconnaissent qu'elles ont exigé que cette convention soit rédigée en anglais, mais sans préjudice à tout document, tout avis, toute correspondance et toute procédure légale qui, de temps à autre, peuvent être rédigés en français.

1.11 Successors and Assigns

All covenants and agreements in this Indenture by the Company shall bind its successors and assigns, whether expressed or not.

1.12 Benefits of Indenture

Nothing in this Indenture or in the Debentures, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any paying agent, the holders of Debentures, the Debenture Trustee and (to the extent provided in Sections 1.14 and 7.11) the holders of Shares, any benefit or any legal or equitable right, remedy or claim under this Indenture.

1.13 References to Acts of the Company

For greater certainty, where any reference is made in this Indenture, or in any other instrument executed pursuant hereto or contemplated hereby to which the Company is party, to an act to be performed by, an obligation or liability of, an asset or right of, or a covenant by, the Company, such reference shall be construed and applied for all purposes as if it referred to an act to be performed by, an obligation or liability of, or a covenant by, the Company or a party to whom the trustees of the Company have delegated the authority to perform such act.

1.14 No Personal Liability

The obligations of the Company under this Indenture or any Debenture are not personally binding upon any registered or beneficial holder of Shares, any officers or agents of the Company, or any annuitant under a plan of which a shareholder of the Company acts as trustee or carrier and, resort shall not be had to, nor shall recourse or satisfaction be sought from, any of such Persons or the private property of any such Persons. Any recourse against any of such Persons in any manner in respect of any indebtedness, obligation or liability of the Company arising hereunder shall be limited to, and satisfied only out of, the assets of the Company.

ARTICLE 2 THE DEBENTURES

2.1 Limit of Debentures

The aggregate principal amount of Debentures authorized to be issued under this Indenture is unlimited, but Debentures may be issued only upon and subject to the conditions and limitations herein set forth.

2.2 Terms of Debentures of any Series

The Debentures may be issued in one or more series. There shall be established herein or in or pursuant to one or more indentures supplemental hereto, prior to the initial issuance of Debentures of any particular series:

- (a) the designation of the Debentures of the series (which need not include the term "Debentures"), which shall distinguish the Debentures of the series from the Debentures of all other series;
- (b) any limit upon the aggregate principal amount of the Debentures of the series that may be certified and delivered under this Indenture (except for Debentures certified and delivered upon registration of, transfer of, amendment of, or in exchange for, or in lieu of, other Debentures of the series pursuant to Sections 2.9, 3.2, 3.3, and 3.6);
- (c) the date or dates on which the principal amount of the Debentures of the series is payable;
- (d) the rate or rates at which the Debentures of the series shall bear interest, if any, the date or dates from which such interest shall accrue, on which such interest shall be payable and on which a record, if any, shall be taken for the determination of holders to whom such interest shall be payable and/or the method or methods by which such rate or rates or date or dates shall be determined;
- (e) the place or places where the principal of and any interest on Debentures of the series shall be payable or where any Debentures of the series may be surrendered for registration of transfer or exchange;
- (f) the right, if any, of the Company to redeem Debentures of the series, in whole or in part, at its option and the period or periods within which, the price or prices at which and any terms and conditions upon which, Debentures of the series may be so redeemed, pursuant to any sinking fund or otherwise;
- (g) the obligation, if any, of the Company to redeem, purchase or repay Debentures of the series pursuant to any mandatory redemption, sinking fund or analogous provisions or at the option of a holder thereof and the price or prices at which, the period or periods within which, the date or dates on which, and any terms and conditions upon which, Debentures of the series shall be redeemed, purchased or repaid, in whole or in part, pursuant to such obligations;
- (h) if other than denominations of \$1,000 and any integral multiple thereof, the denominations in which Debentures of the series shall be issuable;
- (i) subject to the provisions of this Indenture, any trustee, Depositories, authenticating or paying agents, transfer agents or registrars or any other agents with respect to the Debentures of the series;
- (j) any other events of default or covenants with respect to the Debentures of the series not otherwise described in this Indenture;

- (k) the form and terms of the Debentures of the series;
- (l) if applicable, that the Debentures of the series shall be issuable in whole or in part as one or more Global Debentures and, in such case, the Depository or Depositories for such Global Debentures in whose name the Global Debentures will be registered, and any circumstances other than or in addition to those set forth in Section 3.2 in which any such Global Debenture may be exchanged for Fully Registered Debentures, or transferred to and registered in the name of a Person other than the Depository for such Global Debentures or a nominee thereof;
- (m) if other than Canadian currency, the currency in which the Debentures of the series are issuable; and
- (n) any other terms of the Debentures of the series (which terms shall not be inconsistent with the provisions of this Indenture).

All Debentures of any one series shall be substantially identical, except as may otherwise be established herein or, to the extent permitted herein, by or pursuant to a resolution of the directors of the Company, or an Officer's Certificate or in an indenture supplemental hereto. All Debentures of any one series need not be issued at the same time and may be issued from time to time, including pursuant to a Periodic Offering, consistent with the terms of this Indenture, if so provided herein, or, to the extent permitted herein, by or pursuant to such resolution of the directors of the Company, Officer's Certificate or in an indenture supplemental hereto.

2.3 Form of Debentures

Except in respect of the Initial Debentures, the form of which is provided for in Schedule "A", the Debentures of each series shall be substantially in such form or forms (not inconsistent with this Indenture) as shall be established herein or, to the extent permitted herein, by or pursuant to one or more resolutions of the directors of the Company or to the extent established pursuant to, rather than set forth in, a resolution of the directors of the Company, in an Officer's Certificate detailing such establishment or in one or more indentures supplemental hereto, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any Law (including Applicable Securities Legislation) or with any rules or regulations pursuant thereto, or with any rules or regulations of any securities exchange or securities regulatory authority or to conform to general usage, all as may be determined by the trustee executing such Debentures, as conclusively evidenced by its execution of such Debentures.

2.4 Form and Terms of Initial Debentures

- (a) The Initial Debentures authorized for issue immediately are limited to an aggregate principal amount (as opposed to Payment Amount) of up to \$95,000,000 and shall be designated as "Series 2009 15.0% Senior Unsecured Debentures due September 25, 2018".
- (b) The Initial Debentures shall be dated as of the date of closing of the Offering, and shall mature on September 25, 2018 ("Initial Debenture Maturity Date"). On the Initial Debenture Maturity Date, in the manner set out in Section 2.12, the Company shall pay the Initial Debenture Payment Amount, as recorded on the Register at such time in respect of such Initial Debentures, and all accrued and unpaid interest thereon in cash at the rate and calculated in the manner specified in Section 2.2(c),

where "Initial Debenture Payment Amount", in respect of each Initial Debenture, is an amount equal to the principal amount of such Initial Debenture, together with any Initial Debenture Interest Obligation added and recorded on the Register pursuant to Section 2.4(c).
- (c) The Initial Debenture Payment Amount remaining from time to time unpaid and outstanding (x) shall bear interest from, and including, the date of issue at the rate of 15.0% per annum (subject to

2.4(c)(iii) below), payable in arrears (with the exception of the first interest payment and the last interest payment, which will include interest as set forth below) semi-annual payments (the "Initial Debenture Interest Obligation") on June 30 and December 31 in each year (each, an "Initial Debenture Interest Payment Date"), the first such payment to fall due on June 30, 2010 (in respect of Initial Debentures issued on December 17, 2009) or June 30, 2011 (in respect of Initial Debentures issued on April 29, 2011) and the last such payment (representing interest payable from the last Initial Debenture Interest Payment Date to, but excluding, the Initial Debenture Maturity Date) to fall due on September 25, 2018, payable after as well as before maturity and after as well as before default, with interest on amounts in default at the same rate, compounded semi-annually, and (y) such Initial Debenture Interest Obligation shall be payable as hereinafter set forth in this Section 2.2(c). The first interest payment in respect of Initial Debentures issued on December 17, 2009 included interest accrued from, and including December 17, 2009 to, but excluding June 30, 2010, and was equal to \$80.1370 per \$1,000 principal amount of the Initial Debentures. The first interest payment in respect of Initial Debentures issued on April 29, 2011 will include interest accrued from, and including April 29, 2011 to, but excluding June 30, 2011 and will be equal to \$25.4795 per \$1,000 principal amount of the Initial Debentures.

- (i) Any Initial Debenture Interest Obligation shall be payable to the Debentureholders by the Company providing a Written Direction of the Company to the Debenture Trustee to add such amount to the outstanding Initial Debenture Payment Amount and record such amount on the Register (which the Debenture Trustee agrees to do), and such amount shall thereafter bear interest itself as provided herein until such time it is paid. The aggregate Initial Debenture Payment Amount in respect of the aggregate Initial Debentures shall be paid to the next \$1,000 increment. In recording such amount on the Register, the Debenture Trustee shall be fully protected in acting and relying upon the Written Direction of the Company. Notwithstanding the foregoing and subject to 2.4(c)(iii), prior to an IPO, the Company may elect, in its sole discretion and if permitted under the First Lien Note Indenture, to pay such Initial Debenture Interest Obligation in cash in the manner provided in Section 2.14 by delivering to the Debenture Trustee a notice in writing in the manner provided in Section 11.3 not less than ten (10) Business Days prior to the applicable Initial Debenture Interest Payment Date (and the Debenture Trustee shall promptly deliver such notice to the Depository).
- (ii) Notwithstanding Section 2.4(c)(i) and subject to Section 2.4(c)(iii), with respect to any Initial Debenture Interest Payment Date occurring on or after the IPO Date,
 - (A) the Company may elect, in its sole discretion and if permitted under the First Lien Note Indenture, to pay such Initial Debenture Interest Obligation in cash in the manner provided in Section 2.14 by delivering to the Debenture Trustee a notice in writing in the manner provided in Section 11.3 (an "Initial Debenture Interest Payment Notice") not less than ten (10) Business Days prior to the applicable Initial Debenture Interest Payment Date (and the Debenture Trustee shall promptly deliver such notice to the holders of Initial Debentures). In the event the Company does not so elect, not less than ten (10) Business Days prior to the applicable Initial Debenture Interest Payment Date, the Company shall provide the Debenture Trustee with written notice that it will not be paying the Initial Debenture Interest Obligation in cash (and the Debenture Trustee shall promptly deliver such notice to the Depository); and
 - (B) if the Debenture Trustee has received a notice that the Company will not be paying Initial Debenture Obligation in cash at least ten (10) Business Days prior to the applicable Initial Debenture Interest Payment Date, the Debentureholders may (via their Depository Participant) direct the Company, by delivering to the Company and the Debenture Trustee a notice in writing in the manner provided in Section 11.1 and Section 11.3, respectively, not less than five (5) Business Days prior to the applicable Interest Payment Date, to pay the Initial Debenture Interest Obligation (in respect of all of the Initial Debentures held by such

Debentureholder delivering the notice in accordance with this Section 2.4(c)(ii)(B)) by issuing and delivering to the Debenture Trustee, in accordance with applicable securities Laws, that number of Shares obtained by dividing such Initial Debenture Interest Obligation by the greater of (x) \$12.00 and (y) 95% of the volume-weighted average trading price of the Shares on the Recognized Stock Exchange for the twenty (20) consecutive trading days ending ten (10) Business Days prior to the applicable Initial Debenture Interest Payment Date (if such trading price is in U.S. dollars, such trading price shall be converted into Canadian dollars by using the U.S. dollar / Canadian dollar noon rate of exchange as reported by the Bank of Canada on the tenth Business Day prior to the applicable Interest Payment Date), with any fractional shares being paid, at the option of the Company, in its sole discretion, (A) in cash if permitted under the First Lien Note Indenture, in the manner provided in Section 2.14, based on the greater of the prices referred to in items (x) and (y) above, or (B) by issuing one whole Share. In connection with the issuance of Shares hereunder, the Debenture Trustee shall have the power to: (1) accept delivery of the Shares from the Company, (2) deliver the Shares to the Debentureholder delivering the notice in accordance with this Section 2.4(c)(ii)(B), and (3) perform any other action necessarily incidental thereto. Subject to Section 12.15(c), the Debenture Trustee shall not incur any liability or be in any way responsible for the consequences of any loss caused by the transaction referred to in Section 2.4(c)(ii)(B) and the Company indemnifies and saves harmless the Debenture Trustee and its officers, directors, employees and agents from and against any and all liabilities, losses, costs, claims, actions, expenses or demands whatsoever which may be brought against the Debenture Trustee or which it may suffer or incur as a result of performing its obligations set out in Section 2.4(c)(ii)(B). The certificate(s) for any Shares issued pursuant to the Initial Debentures will bear such restrictive or other legends as may be advised by Counsel to the Company. The Shares to be issued pursuant to this Section 2.4(c)(ii)(B) shall be the same class of Shares as the IPO Shares.

- (iii) Notwithstanding Section 2.4(c)(i), with respect to any Initial Debenture Interest Payment Date occurring after April 29, 2013, the Debentureholders may (via their Depository Participant) elect and direct the Company, by delivering to the Company and the Debenture Trustee a notice in writing in the manner provided in Section 11.1 and Section 11.3, respectively, not less than fifteen (15) Business Days prior to the applicable Interest Payment Date, to pay the Initial Debenture Interest Obligation (in respect of all of the Initial Debentures held by such Debentureholder delivering the notice in accordance with this Section 2.4(c)(iii)) in cash, provided that such Initial Debenture Interest Obligation shall be calculated at the rate of 13.5% per annum (instead of 15.0% per annum), and
 - (A) in the event a Debentureholder does not elect to receive the Initial Debenture Interest Obligation in cash in accordance with Section 2.4(c)(iii), and whether or not an IPO has already occurred, the Debentureholder shall receive the Initial Debenture Interest Obligation in accordance with Section 2.4(c)(i) and Section 2.4(c)(ii), as the case may be, and for greater certainty, such Initial Debenture Interest Obligation shall be calculated at the rate of 15.0% per annum.
 - (B) in the event a Debentureholder has elected to receive the Initial Debenture Interest Obligation in cash in accordance with Section 2.4(c)(ii), and
 - (1) an IPO has not yet occurred and the Company subsequently does not elect to pay such Initial Debenture Interest Obligation in cash in accordance with 2.4(c)(i), the Company shall pay, in cash, such Initial Debenture Interest Obligation at the rate of 13.5% per annum in the manner provided in Section 2.14; or

- (2) whether or not an IPO has already occurred and the Company subsequently elects to pay such Initial Debenture Interest Obligation in cash in accordance with Section 2.4(c)(i) or Section 2.4(c)(ii)(A), as applicable, the Debentureholder shall be deemed to have not made its election in accordance with Section 2.4(c)(iii) and shall receive the Initial Debenture Interest Obligation in accordance with Section 2.4(c)(i) or Section 2.4(c)(ii)(A), as applicable, at the rate of 15.0% per annum (instead of 13.5% per annum); or
- (3) an IPO has already occurred and the Company subsequently does not elect to pay such Initial Debenture Obligation in cash in accordance with Section 2.4(c)(ii)(A), the Company shall pay, in cash, such Initial Debenture Interest Obligation at the rate of 13.5% per annum in the manner provided in Section 2.14 and the Debentureholder shall not have the right to elect to receive shares in accordance with Section 2.4(c)(ii)(B).
- (iv) Notwithstanding anything to the contrary in this Section 2.4(c), on the IPO Date, the Company shall redeem on a pro rata basis (based on the aggregate Initial Debenture Payment Amount outstanding) the Initial Debenture Redeemed Interest Amount (defined below) by issuing and delivering to the Debenture Trustee that number of IPO Shares obtained by dividing such Initial Debenture Redeemed Interest Amount by the IPO Price (If such price is in U.S. dollars, such price shall be converted into Canadian dollars by using the U.S. dollar / Canadian dollar noon rate of exchange as reported by the Bank of Canada on the Business Day immediately prior to the IPO Date), with any fractional shares being paid, at the option of the Company, in its sole discretion, (x) in cash if permitted under the First Lien Note Indenture, in the manner provided in Section 2.14, based on the IPO Price, or (y) by issuing one whole IPO Share, and interest upon such Initial Debenture Redeemed Interest Amount shall cease to be payable from and after the IPO Date, and otherwise in accordance with the terms set out in Article 3 applicable to any redemptions,

where "Initial Debenture Redeemed Interest Amount" is an amount equal to the sum of (A) 50% of any Initial Debenture Interest Obligation paid in accordance with Section 2.4(c)(i) (that has not been otherwise paid in cash), and (B) any accrued and unpaid interest on such amounts referred to in item (A) above (which, for greater certainty, have not yet been included in the Initial Debenture Payment Amount), calculated up to but excluding the IPO Date.

In connection with the issuance of IPO Shares hereunder, the Debenture Trustee shall have the power to: (1) accept delivery of the IPO Shares from the Company, (2) deliver the IPO Shares to the Debentureholder, and (3) perform any other action necessarily incidental thereto. Subject to Section 12.15(c), the Debenture Trustee shall not incur any liability or be in any way responsible for the consequences of any loss caused by the transaction referred to in Section 2.4(c)(iii) and the Company indemnifies and saves harmless the Debenture Trustee and its officers, directors, employees and agents from and against any and all liabilities, losses, costs, claims, actions, expenses or demands whatsoever which may be brought against the Debenture Trustee or which it may suffer or incur as a result of performing its obligations set out in Section 2.4(c)(iii).

The Company shall provide written notice to the Debenture Trustee and the Depository of the IPO Date at least 10 Business Days prior thereto.

- (d) The Initial Debentures will be redeemable in accordance with the terms of Article 4. Prior to the date that is 18 months following the date of issuance of the Initial Debentures, the Initial Debentures will be redeemable, in whole or in part from time to time, at a Redemption Price equal to 107.5% of the Initial Debenture Payment Amount as reflected on the Register, and in addition

thereto, at the time of redemption, the Company shall pay to the Debentureholders accrued and unpaid interest not included in the Initial Debenture Payment Amount, calculated up to but excluding the Redemption Date (such aggregate amount being the "Initial Debenture Redemption Price A"). From and after the date that is 18 months following the date of issuance of the Initial Debentures, the Initial Debentures will be redeemable, in whole or in part from time to time, at a Redemption Price equal to the Initial Debenture Payment Amount as reflected on the Register, and in addition thereto, at the time of redemption, the Company shall pay to the Debentureholders accrued and unpaid interest not included in the Initial Debenture Payment Amount, calculated up to but excluding the Redemption Date (such aggregate amount being, "Initial Debenture Redemption Price B"). The Redemption Notice for the Initial Debentures shall be in the form of Schedule "B" hereto.

- (e) The Initial Debentures will be direct unsecured obligations of the Company and will be subordinated to the Senior Indebtedness of the Company in accordance with the provisions of Article 5. In accordance with Section 2.11, the Initial Debentures will rank *pari passu* with each other series of Debentures and, subject to statutory preferred exceptions, with all other present and future unsecured Indebtedness of the Company, including for greater certainty, up to \$59,741,000 principal amount of unsecured convertible debentures issued by the Company to Quadrangle or DAVE Investments, as the case may be, together with any payment in kind or other accrued or capitalized interest, except, in each case for (i) sinking fund provisions (if any) applicable to different series of Debentures, (ii) any unsecured Indebtedness which by its terms is subordinated in rank to the Debentures, including \$35 million principal amount of unsecured convertible debentures which may be issued by the Company to Quadrangle or DAVE Investments, as the case may be, pursuant to the Commitment Agreement, and (iii) any Indebtedness incurred in compliance with Section 6.14(d).
- (f) The Initial Debentures shall be evidenced by a Global Debenture. Such Global Debenture and the certificate of the Debenture Trustee endorsed thereon shall be issued in substantially the form set out in Schedule "A" hereto, with such insertions, omissions, substitutions or other variations as shall be required or permitted by this Indenture, and may have imprinted or otherwise reproduced thereon such legend or legends or endorsements, not inconsistent with the provisions of this Indenture, as may be required to comply with any Law or with any rules or regulations pursuant thereto or with any rules or regulations of any securities exchange or securities regulatory authority or to conform with general usage. The Depository for the Initial Debentures shall be CDS Clearing and Depository Services Inc. The Global Debenture shall be registered in the name of CDS Clearing and Depository Services Inc. (or any nominee of the Depository). No Beneficial Holder will receive security certificates representing their interest in Debentures except as provided in Section 3.2 or as agreed to by the holder, the Company and the Debenture Trustee. A Global Debenture may be exchanged for Debentures in registered form that are not Global Debentures, or transferred to and registered in the name of a Person other than the Depository for such Global Debentures or a nominee thereof as provided in Section 3.2. Notwithstanding anything to the contrary contained in this Indenture, Beneficial Holders shall be entitled to make book-entry transfers of the Initial Debentures in accordance with Applicable Securities Legislation, and prior to an IPO, the transferee of any Initial Debenture must be a Person that is "Canadian" within the meaning of Section 2 of the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the Telecommunications Act (Canada). The holder of Initial Debentures and the successive respective holders of such Initial Debentures (and not the Company nor the Debenture Trustee) shall be solely responsible for ensuring compliance with the restrictions set out herein in respect of the transfer of the Initial Debentures. Any transfer in violation of this Section 2.4(f) shall be deemed to not have occurred, the Company shall not be affected or bound by any such transfer, and the Debenture Trustee shall correct the Register in accordance with the Written Direction of the Company. In so correcting the Register, the Debenture Trustee shall be fully protected in acting and relying upon the Written Direction of the Company.

(g) Within 30 days following the occurrence of a Change of Control, and subject to the provisions and conditions of this Section 2.4(g) the Company shall be obligated to offer to purchase the then outstanding Initial Debentures. The terms and conditions of such obligation are set forth below:

- (i) Within 30 days following the occurrence of a Change of Control, the Company shall deliver to the Debenture Trustee, who shall promptly deliver to the holders of the Initial Debentures, a notice stating that there has been a Change of Control and specifying the circumstances surrounding such event (a "Change of Control Notice") together with an offer in writing (the "Offer") in the manner provided in Section 3.2(d) to purchase all then outstanding Initial Debentures at a price equal to (x) 101% of the Initial Debenture Payment Amount as reflected on the Register, plus (y) accrued and unpaid interest not included in the Initial Debenture Payment Amount, calculated up to but excluding the date of acceptance by the Company (or the Person triggering the Change of Control) of such Debentures (such aggregate amount determined pursuant to this Section 2.4(g)(i) being the "Offer Price"), which Offer shall, unless otherwise provided under Applicable Securities Legislation, be open for acceptance thereof for a period of not less than 35 days and not more than 60 days and shall provide for payment to all Debentureholders who accept the Offer not later than the 60th day after the making of the Offer. The Change of Control Notice shall specify (i) the provision of the Indenture pursuant to which the Offer is being made and that all Initial Debentures validly tendered will be accepted for payment; (ii) the Offer Price and date of acceptance by the Company; (iii) that any Initial Debenture not tendered will continue to accrue interest in accordance with its terms; (iv) that any Initial Debenture accepted for payment pursuant to the Offer, shall cease to accrue interest on and after the date of acceptance by the Company unless the Company defaults in the payment of the Offer Price; (v) that Debentureholders, electing to have an Initial Debenture purchased pursuant to the Offer will be required to surrender the Initial Debenture to the Debenture Trustee at the address specified in the Change of Control Notice prior to the close of business on the Business Day immediately preceding the date of acceptance by the Company or, in the case of the Global Debenture, that the purchase will take place in such manner as may be agreed upon by the Depository, the Debenture Trustee and the Company and specified in the Offer; and (vi) that Debentureholders will be entitled to withdraw their election if the Debenture Trustee receives, not later than the close of business on the third Business Day immediately preceding the date of acceptance by the Company, a facsimile transmission or letter setting forth the name of such Debentureholder, the Initial Debenture Payment Amount of the Initial Debenture delivered for purchase and a statement that the Debentureholder is withdrawing his or her election to have such Initial Debentures purchased. For greater certainty, any payment of the Offer Price due as a result of a Change of Control shall be fully and effectively subordinated and postponed to all Senior Indebtedness to the same extent, and in the manner set forth in Article 5.
- (ii) If 90% or more in aggregate of the Payment Amount of Initial Debentures outstanding on the date the Company provides the Offer to holders of the Initial Debentures have been tendered for purchase pursuant to the Offer on the expiration thereof, the Company has the right and obligation upon written notice provided to the Debenture Trustee within 10 days following the expiration of the Offer, to redeem and shall redeem all the Initial Debentures remaining outstanding on the expiration of the Offer at the Offer Price (the "90% Redemption Right").
- (iii) Upon receipt of notice that the Company has exercised or is exercising the 90% Redemption Right and is acquiring the remaining Initial Debentures, the Debenture Trustee shall promptly provide written notice to each Debentureholder that did not previously accept the Offer that:
 - (A) the Company has exercised the 90% Redemption Right and is purchasing all outstanding Initial Debentures effective on the expiry of the Offer at the Offer

Price, and shall include a calculation of the amount payable to such holder as payment of the Offer Price;

- (B) each such holder must transfer their Initial Debentures to the Debenture Trustee on the same terms as those holders that accepted the Offer and must send their respective Initial Debentures, duly endorsed for transfer, to the Debenture Trustee within 10 days after the sending of such notice; and
- (C) the rights of such holder under the terms of the Initial Debentures and this Indenture cease to be effective as of the date of expiry of the Offer provided the Company has, on or before the time of notifying the Debenture Trustee of the exercise of the 90% Redemption Right, paid the aggregate Offer Price to, or to the order of, the Debenture Trustee and thereafter the Initial Debentures shall not be considered to be outstanding and each holder thereof shall not have any right except to receive such holder's Offer Price upon surrender and delivery of such holder's Initial Debentures in accordance with the Indenture.

The form of notice to be provided to each Debentureholder that did not previously accept the Offer shall be prepared by the Company or counsel to the Company, and the Debenture Trustee shall not be responsible for calculating any amount payable to such holders.

- (iv) The Company shall, on or before 11:00 a.m. (Toronto time) on the date of the expiry of the Offer, deposit with the Debenture Trustee or any paying agent to the order of the Debenture Trustee by electronic transfer, such sums of money as may be sufficient to pay the aggregate Offer Price of the Initial Debentures to be purchased or redeemed by the Company on the expiry of the Offer. The Company shall also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Debenture Trustee in connection with such purchase and/or redemption, as the case may be. Every such deposit shall be irrevocable. From the sums so deposited, the Debenture Trustee shall pay or cause to be paid to the holders of such Initial Debentures, the Offer Price to which they are entitled on the Company's purchase or redemption.
- (v) In the event that one or more of such Initial Debentures being purchased in accordance with this Section 2.4(g) becomes subject to purchase in part only, upon surrender of such Initial Debentures for payment of the Offer Price, the Company shall execute and the Debenture Trustee shall certify and deliver without charge to the holder thereof or upon the holder's order, one or more new Initial Debentures for the portion of the principal amount not purchased, with the applicable Initial Debenture Payment Amount recorded on the Register.
- (vi) Initial Debentures for which holders have accepted the Offer and Initial Debentures which the Company has elected to redeem in accordance with this Section 2.4(g) shall become due and payable at the Offer Price on the date of expiry of the Offer or, where has Company has elected to redeem in accordance with this Section 2.4(g), on the date prescribed in the notice provided pursuant to Section 2.4(g)(iii), in the same manner and with the same effect as if it were the Initial Debenture Maturity Date, anything therein or herein to the contrary notwithstanding, and from and after such date of expiry of the Offer, if the money necessary to purchase or redeem the Initial Debentures shall have been deposited as provided in this Section 2.4(g) and affidavits or other proofs satisfactory to the Debenture Trustee as to the publication and/or mailing of such notices shall have been lodged with it, interest on the Initial Debentures shall cease. If any question shall arise as to whether any notice has been given as above provided and such deposit made, such question shall be decided by the Debenture Trustee whose decision shall be final and binding upon all parties in interest.

- (vii) In case the holder of any Initial Debenture to be purchased or redeemed in accordance with this Section 2.4(g) shall fail on or before the date specified in Section 2.4(g)(i) or Section 2.4(g)(vi), as applicable, so to surrender such holder's Initial Debenture or shall not within such time accept payment of the monies payable, or give such receipt therefor, if any, as the Debenture Trustee may require, such monies may be set aside in trust, either in the deposit department of the Debenture Trustee or in a chartered bank, and such setting aside shall for all purposes be deemed a payment to the Debentureholder of the sum so set aside and the Debentureholder shall have no other right except to receive payment of the monies so paid and deposited without interest, upon surrender and delivery up of such holder's Initial Debenture. In the event that any money required to be deposited hereunder with the Debenture Trustee or any depository or paying agent on account of the Initial Debenture Payment Amount, or any accrued but unpaid interest thereon, issued hereunder shall remain so deposited for a period of six years from the date of expiry of the Offer, then such monies, together with any accumulated interest thereon, shall at the end of such period be paid over or delivered over by the Debenture Trustee or such depository or paying agent to the Company and the Debenture Trustee shall not be responsible to Debentureholders for any amounts owing to them.
- (viii) Subject to the provisions above related to Initial Debentures purchased in part, all Initial Debentures redeemed and paid under this Section 2.4(g) shall forthwith be delivered to the Debenture Trustee and cancelled and no Initial Debentures shall be issued in substitution therefor.
- (ix) If the Company is a public company at time of the Change of Control, the Company will publicly announce the aggregate Initial Debenture Payment Amount of Initial Debentures that were purchased under the Offer made pursuant to Section 2.4(g)(i) promptly after the date such Initial Debentures were accepted by the Company.
- (h) Upon the earlier of (x) the occurrence of a Liquidity Event, or (y) the date no Initial Debentures are outstanding, this Section 2.4(h) has no force or effect, and the Company has no obligations under this Section 2.4(h).
 - (i) For the purposes of this Section 2.4(h), the term "Issue Date" shall mean the date that is 18 months following the date of issuance of the Initial Debentures, and each six-month anniversary thereafter.
 - (ii) On each Issue Date, the Company shall issue and deliver to the Debenture Trustee, one Common Share purchase warrant (a "CW Warrant") and one Class B Share purchase warrant (a "B Warrant", and together with the CW Warrant, the "Warrants") for every \$1,000 of principal amount of Initial Debentures outstanding (for greater certainty, not based on the Initial Debenture Payment Amount at such time). For greater certainty, the Debentureholders' right to Warrants hereunder shall not accrue between Issue Dates, and the issuance of Warrants on any given Issue Date shall only occur no Liquidity Event has occurred as of such Issue Date.
 - (iii) Each CW Warrant shall entitle the holder thereof to purchase one Common Share at a price of \$12.00 per Common Share, and each B Warrant shall entitle the holder thereof to purchase one Class B Share at a price of \$12.00 per Class B Share, and such Warrants shall be issued by the Company in the form attached as Schedule "C" hereto. The certificate(s) for any Warrants issued will bear such restrictive or other legends as may be advised by Counsel to the Company.
 - (iv) Up to 190,000 Warrants may be issued and delivered by the Company on an Issue Date to the Debenture Trustee. In connection with the issuance of Warrants hereunder, the Debenture Trustee shall have the power to: (1) accept delivery of the Warrants from the Company, (2) deliver Warrants to the Debentureholders on the basis set out in Section 2.4(h)(ii), and (3) perform any other action necessarily incidental thereto. Subject to

Section 12.15(c), the Debenture Trustee shall not incur any liability or be in any way responsible for the consequences of any loss caused by the transaction referred to in Section 2.4(h) and the Company indemnifies and saves harmless the Debenture Trustee and its officers, directors, employees and agents from and against any and all liabilities, losses, costs, claims, actions, expenses or demands whatsoever which may be brought against the Debenture Trustee or which it may suffer or incur as a result of performing its obligations set out in Section 2.4(h).

- (i) The Debenture Trustee shall be provided with the documents and instruments referred to in Sections 2.5(b) and (c) with respect to the Initial Debentures prior to the issuance of the Initial Debentures.

2.5 Certification and Delivery of Additional Debentures

The Company may from time to time request the Debenture Trustee to certify and deliver Additional Debentures of any series by delivering to the Debenture Trustee the documents referred to below in this Section 2.5 whereupon the Debenture Trustee shall certify such Debentures and cause the same to be delivered in accordance with the Written Direction of the Company referred to below or pursuant to such procedures acceptable to the Debenture Trustee as may be specified from time to time by a Written Direction of the Company. The maturity date, issue date, interest rate (if any) and any other terms of the Debentures of such series shall be set forth in or determined by or pursuant to such Written Direction of the Company and such procedures. In certifying such Debentures, the Debenture Trustee shall be entitled to receive and shall be fully protected in acting and relying upon, unless and until such documents have been superseded or revoked:

- (a) an Officer's Certificate and/or executed supplemental indenture by or pursuant to which the form and terms of such Additional Debentures were established;
- (b) a Written Direction of the Company requesting certification and delivery of such Additional Debentures and setting forth delivery instructions, provided that, with respect to Debentures of a series subject to a Periodic Offering:
 - (i) such Written Direction of the Company may be delivered by the Company to the Debenture Trustee prior to the delivery to the Debenture Trustee of such Additional Debentures of such series for certification and delivery;
 - (ii) the Debenture Trustee shall certify and deliver Additional Debentures of such series for original issue from time to time, in an aggregate principal amount not exceeding the aggregate principal amount, if any, established for such series, pursuant to a Written Direction of the Company or pursuant to procedures acceptable to the Debenture Trustee as may be specified from time to time by a Written Direction of the Company;
 - (iii) the maturity date or dates, issue date or dates, interest rate or rates (if any) and any other terms of Additional Debentures of such series shall be determined by an executed supplemental indenture or by Written Direction of the Company or pursuant to such procedures; and
 - (iv) if provided for in such procedures, such Written Direction of the Company may authorize certification and delivery pursuant to electronic instructions from the Company; and
- (c) an Officer's Certificate certifying that the Company is not in default under this Indenture, that the terms and conditions for the certification and delivery of Additional Debentures (including those set forth in Section 12.5), have been complied with subject to the delivery of any documents or instruments specified in such Officer's Certificate and that no Event of Default exists or will exist upon such certification and delivery.

2.6 Issue of Global Debentures

- (a) The Company may specify that the Debentures of a series are to be issued in whole or in part, as one or more Global Debentures registered in the name of a Depository, or its nominee, designated by the Company in the Written Direction of the Company delivered to the Debenture Trustee at the time of issue of such Debentures. In the event the Company specifies that the Debentures of a series are to be issued as a Global Debenture, the Company shall execute and the Debenture Trustee shall certify and deliver one or more Global Debentures that shall:

- (i) represent an aggregate amount equal to the principal amount of the outstanding Debentures of such series to be represented by one or more Global Debentures;
- (ii) be delivered by the Debenture Trustee as directed in the Written Direction of the Company; and
- (iii) bear a legend substantially to the following effect:

"This Debenture is a Global Debenture within the meaning of the amended and restated Trust Indenture dated as of April 29, 2011, between Data & Audio-Visual Enterprises Holdings Inc. and Equity Financial Trust Company (the "Indenture") and is registered in the name of a Depository or a nominee thereof. This Debenture may not be transferred to or exchanged for Debentures registered in the name of any Person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Debenture authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, this Debenture shall be a Global Debenture subject to the foregoing, except in such limited circumstances described in the Indenture."

- (b) Each Depository designated for a Global Debenture must, at the time of its designation and at all times while it serves as such Depository, be a clearing agency registered or designated under the securities legislation of the jurisdiction where the Depository has its principal offices.

2.7 Execution of Debentures

All Debentures shall be signed (either manually, by manual signature that is sent by portable document format or by facsimile signature) by any one director or officer of the Company, holding office at the time of signing. A facsimile signature upon a Debenture shall for all purposes of this Indenture be deemed to be the signature of the Person whose signature it purports to be. Notwithstanding that any Person whose signature, either manual or in facsimile, appears on a Debenture as a director or officer of the Company, may no longer hold such office at the date of the Debenture or at the date of the certification and delivery thereof, such Debenture shall be valid and binding upon the Company and entitled to the benefits of this Indenture.

2.8 Certification

No Debenture shall be issued or, if issued, shall be obligatory or shall entitle the holder to the benefits of this Indenture, until it has been manually certified by or on behalf of the Debenture Trustee substantially in the form set out in this Indenture, in the relevant supplemental indenture, or in some other form approved by the Debenture Trustee. Such certification on any Debenture shall be conclusive evidence that such Debenture is duly issued, is a valid obligation of the Company and the holder is entitled to the benefits described herein and therein.

The certificate of the Debenture Trustee signed on the Debentures shall not be construed as a representation or warranty by the Debenture Trustee as to the validity of this Indenture or of the Debentures or as to the issuance of the Debentures and the Debenture Trustee shall in no respect be liable or answerable for the use made of the Debentures or any of them or the proceeds thereof. The certificate of the Debenture Trustee signed on the Debentures shall, however, be a representation and warranty by the Debenture Trustee that the Debentures have been duly certified by or on behalf of the Debenture Trustee pursuant to the provisions of this Indenture.

2.9 Mutilation, Loss, Theft or Destruction

In case any of the Debentures, whether a Global Debenture or a Fully Registered Debenture, issued hereunder shall become mutilated or be lost, stolen or destroyed, the Company, in its discretion, may issue, and thereupon the Debenture Trustee shall certify and deliver, a new Debenture upon surrender and cancellation of the mutilated Debenture, or in the case of a lost, stolen or destroyed Debenture, in lieu of and in substitution for the same, and the substituted Debenture shall be in a form approved by the Debenture Trustee and shall be entitled to the benefits of this Indenture and rank equally in accordance with its terms with all other Debentures issued or to be issued hereunder. In case of loss, theft or destruction the applicant for a substituted Debenture shall furnish to the Company and to the Debenture Trustee such evidence of the loss, theft or destruction of the Debenture as shall be satisfactory to them in their discretion and shall also furnish an indemnity and surety bond satisfactory to them in their discretion and any other documents required by the Debenture Trustee in their discretion. The applicant shall pay all reasonable expenses incidental to the issuance of any substituted Debenture.

2.10 Concerning Interest

- (a) Subject to Section 2.4(c) with respect to the calculation of interest in respect of the first and last Initial Debenture Interest Obligation to be paid on the Initial Debentures, all Debentures issued hereunder, whether originally or upon exchange or in substitution for previously issued Debentures which are interest bearing, shall bear interest (i) from and including their issue date, or (ii) from and including the last Interest Payment Date to which interest shall have been paid or made available for payment on the outstanding Debentures of that series, whichever shall be the later, or, in respect of Debentures subject to a Periodic Offering, from and including their issue date or from and including the last Interest Payment Date to which interest shall have been paid or made available for payment on such Debentures, in all cases, to and excluding the next Interest Payment Date;
- (b) Unless otherwise specifically provided in the terms of the Debentures of any series, interest for any period of less than six months shall be computed on the basis of a year of 365 days. Subject to Section 2.4(c) in respect of the method for calculating the amount of interest to be paid on the Initial Debentures on the first Initial Debenture Interest Payment Date in respect thereof, with respect to any series of Debentures, whenever interest is computed on a basis of a year (the "deemed year") which contains fewer days than the actual number of days in the calendar year of calculation, such rate of interest shall be expressed as a yearly rate for purposes of the *Interest Act* (Canada) by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing it by the number of days in the deemed year.

2.11 Debentures to Rank *Pari Passu*

The Debentures will be direct unsecured obligations of the Company subordinated to the Senior Indebtedness. Each Debenture of the same series of Debentures will rank *pari passu* with each other Debenture of the same series (regardless of their actual date or terms of issue) and, subject to statutory preferred exceptions, with all other present and future unsecured Indebtedness of the Company, including for greater certainty, up to \$59,741,000 principal amount of unsecured convertible debentures issued by the Company to Quadrangle or DAVE Investments, as the case may be, together with any payment in kind or other accrued or capitalized interest, except, in each case, for (i) sinking fund provisions (if any) applicable to different series of Debentures or other similar types of obligations of the Company, (ii) any unsecured Indebtedness which by its terms is subordinated in rank to the Debentures, including \$35 million principal amount of unsecured convertible debentures which may be issued by the Company to Quadrangle or DAVE Investments, as the case may be, pursuant to the Commitment Agreement, and (iii) any Indebtedness incurred in compliance with Section 6.14(d). Subject to Section 6.14, nothing herein prevents the Company from creating and issuing a series of Debentures, whether or not ranking *pari passu* with another series of Debentures.

2.12 Payments of Amounts Due on Maturity

Except as may otherwise be provided herein or in any supplemental indenture in respect of any series of Debentures, payments of amounts due upon maturity of the Debentures will be made in the following manner. The Company will establish and maintain with the Debenture Trustee a Maturity Account for each series of Debentures. Each such Maturity Account shall be maintained by and be subject to the control of the Debenture Trustee for the purposes of this Indenture. On or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to each Maturity Date for Debentures outstanding from time to time under this Indenture, the Company will deliver to the Debenture Trustee funds for deposit in the applicable Maturity Account in an amount sufficient to pay the cash amount payable in respect of such Debentures (including the Payment Amount together with any accrued and unpaid interest thereon less any tax required by Law to be withheld or deducted therefrom). The Debenture Trustee, on behalf of the Company, will pay to each holder entitled to receive payment the Payment Amount and accrued and unpaid interest on the Debenture (less any tax required to be withheld or deducted therefrom), upon surrender of the Debenture at any branch of the Debenture Trustee designated for such purpose from time to time by the Company and the Debenture Trustee. The delivery of such funds to the Debenture Trustee for deposit to the applicable Maturity Account will satisfy and discharge the liability of the Company for the Debentures to which the delivery of funds relates to the extent of the amount delivered (plus the amount of any tax withheld or deducted as aforesaid) and such Debentures will thereafter to that extent not be considered as outstanding under this Indenture and such holder will have no other right in regard thereto other than to receive out of the money so delivered or made available the amount to which it is entitled.

Payment of funds to the Debenture Trustee upon maturity of the Debentures shall be made by electronic transfer or pursuant to such other arrangements for the provision of funds as may be agreeable between the Company and the Debenture Trustee in order to effect such maturity payment hereunder. The Debenture Trustee shall disburse such maturity payments only upon receiving, at least one Business Day prior to each Maturity Date, funds in an amount sufficient for the maturity payment. Notwithstanding the foregoing, all payments in excess of \$25 million in Canadian dollars (or such other amount as determined from time to time by the Canadian Payments Association) shall be made by the use of the Large Value Transfer System ("LVTS"). The Debenture Trustee shall have no obligation to disburse funds pursuant to this Section 2.12 until it has received written confirmation satisfactory to it that the funds have been deposited with it in sufficient amount to pay in full all amounts due and payable on the applicable Maturity Date. The Debenture Trustee shall, if any funds are received by it in the form of uncertified cheques, be entitled to delay the time for release of such funds until such uncertified cheques shall be determined to have cleared the financial institution upon which the same are drawn.

2.13 Legends on the Debentures

- (a) The Debentures and the Shares issuable in connection with the payment of interest thereon, if applicable, have not been and will not be registered or qualified under Applicable Securities Legislation or the 1933 Act. The certificates representing the Debentures and the Shares issuable in connection with the payment of interest thereon, if applicable, will bear a legend in accordance with Applicable Securities Legislation (the "Canadian Legend");

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY AND ANY SECURITIES ISSUED UPON EXERCISE OR CONVERSION OF THESE SECURITIES MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) [INSERT THE DISTRIBUTION DATE], AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY."

- (b) All Debentures and the Shares issuable in connection with the payment of interest thereon, if applicable, issued and sold in the United States in reliance on an exemption from the registration requirements under the 1933 Act, as well as all Debentures and the Shares issuable in connection with the payment of interest thereon, if applicable, issued in exchange for or in substitution of the foregoing securities, shall bear, unless otherwise directed by the Company, the following legends (the "U.S. Legend"):

"THE SECURITIES REPRESENTED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT"). THE HOLDER HEREOF, BY PURCHASING SUCH SECURITIES, AGREES FOR THE BENEFIT OF THE COMPANY THAT SUCH SECURITIES MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE COMPANY, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE U.S. SECURITIES ACT, (C) IN ACCORDANCE WITH THE EXEMPTION FROM REGISTRATION UNDER THE U.S. SECURITIES ACT PROVIDED BY (1) RULE 144 OR (2) RULE 144A THEREUNDER, IF AVAILABLE, AND IN COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS, OR (D) IN A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE U.S. SECURITIES ACT OR ANY APPLICABLE STATE LAWS AND REGULATIONS GOVERNING THE OFFER AND SALE OF SECURITIES, AND THE HOLDER HAS, PRIOR TO SUCH SALE, FURNISHED TO THE COMPANY AND THE DEBENTURE TRUSTEE AN OPINION OF COUNSEL, OF RECOGNIZED STANDING, OR OTHER EVIDENCE OF EXEMPTION, IN EITHER CASE, REASONABLY SATISFACTORY TO THE COMPANY. DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE GOOD DELIVERY IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA. THE HOLDER AGREES NOT TO ENGAGE, DIRECTLY OR INDIRECTLY, IN HEDGING TRANSACTIONS INVOLVING THESE SECURITIES UNLESS IN COMPLIANCE WITH THE U.S. SECURITIES ACT. PROVIDED THAT THE COMPANY IS A "FOREIGN ISSUER" WITHIN THE MEANING OF REGULATION S AT THE TIME OF SALE, AND PROVIDED THAT THE FOLLOWING PROCEDURE COMPLIES WITH U.S. SECURITIES LAWS AT THE TIME OF SALE, A NEW CERTIFICATE BEARING NO LEGEND MAY BE OBTAINED FROM THE COMPANY'S REGISTRAR AND TRANSFER AGENT UPON DELIVERY OF THIS CERTIFICATE AND A DULY EXECUTED DECLARATION, IN A FORM SATISFACTORY TO THE REGISTRAR AND TRANSFER AGENT AND THE COMPANY, TO THE EFFECT THAT SUCH SALE IS BEING MADE IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE U.S. SECURITIES ACT."

provided, that if the Debentures or Shares, as the case may be, are being sold under clause (B) above, and provided that the Company is a "foreign issuer" within the meaning of Regulation S under the 1933 Act at the time of sale, the U.S. Legend may be removed by providing a declaration to the Debenture Trustee or the registrar and transfer agent for the Shares, as the case may be, as set forth in Schedule "D" hereto (or as the Company may prescribe from time to time); and provided, further, that, if any such securities are being sold under clause (C)(1) above, the U.S. Legend may be removed by delivery to the Debenture Trustee or the registrar and transfer agent for the Shares, as the case may be, of an opinion of counsel, of recognized standing reasonably satisfactory to the Company and the Debenture Trustee (if the opinion is being delivered to the Debenture Trustee), that the U.S. Legend is no longer required under applicable requirements of Applicable Securities Legislation or the 1933 Act or state securities Laws, as applicable. Provided that the Debenture Trustee obtains confirmation from the Company that such counsel is satisfactory to the Company, the Debenture Trustee shall be entitled to rely on such opinion of counsel without further inquiry. Prior to the issuance of the Debentures, the Company shall notify the Debenture Trustee, in writing, concerning which Debentures are to bear the U.S. Legend. The Debenture Trustee will thereafter maintain a list of all registered holders from time to time of Debentures bearing the Canadian and/or the U.S. Legend, as applicable.

- (c) The certificates representing the Debentures will bear the following legend in accordance with Section 2.4(f) (the "Transfer Legend"):

"PRIOR TO AN INITIAL PUBLIC OFFERING IN RESPECT OF THE ISSUER OF THIS SECURITY, THE HOLDER OF THIS SECURITY MAY NOT TRANSFER IT TO A PERSON WHO IS NOT CANADIAN WITHIN THE MEANING OF SECTION 2 OF THE CANADIAN TELECOMMUNICATIONS COMMON CARRIER OWNERSHIP AND CONTROL REGULATIONS PROMULGATED PURSUANT TO THE TELECOMMUNICATIONS ACT (CANADA)."

2.14 Payment of Interest

The following provisions shall apply to any series of Debentures, except as otherwise provided in Section 2.4(c) or specified in a resolution of the directors of the Company, an Officer's Certificate or a supplemental indenture relating to a particular series of Additional Debentures:

- (a) As interest becomes due on each Debenture (except at maturity or on redemption or repurchase, when interest may at the option of the Company be paid at the time of surrender of such Debenture) the Company, either directly or through the Debenture Trustee or any agent of the Debenture Trustee, may send or forward by prepaid ordinary mail, electronic transfer of funds or such other means as may be agreed to by the Debenture Trustee, payment of such interest (less any tax required to be withheld therefrom) to the order of the registered holder of such Debenture appearing on the registers maintained by the Debenture Trustee at the close of business on the third Business Day prior to the applicable Interest Payment Date and addressed to the holder at the holder's last address appearing on the register (or, in the case of joint holders to the registered address of one of the joint holders), unless such holder otherwise directs. If payment is made by cheque, such cheque shall be forwarded at least three Business Days prior to each date on which interest becomes due and if payment is made by other means (such as electronic transfer of funds, provided the Debenture Trustee must receive confirmation of receipt of funds prior to being able to wire funds to holders), such payment shall be made in a manner whereby the holder receives credit for such payment on the date such interest on such Debenture becomes due. The mailing of such cheque or the making of such payment by other means shall, to the extent of the sum represented thereby, plus the amount of any tax withheld as aforesaid, satisfy and discharge all liability for interest on such Debenture, unless in the case of payment by cheque, such cheque is not paid at par on presentation. In the event of non-receipt of any cheque for or other payment of interest by the Person to whom it is so sent as aforesaid, the Company will issue to such Person a replacement cheque or other payment for a like amount upon being furnished with such evidence of non-receipt as it shall reasonably require and upon being indemnified to its satisfaction. Notwithstanding the foregoing, if the Company is prevented by circumstances beyond its control (including, without limitation, any interruption in mail service) from making payment of any interest due on each Debenture in the manner provided above, the Company may make payment of such interest or make such interest available for payment in any other manner acceptable to the Debenture Trustee with the same effect as though payment had been made in the manner provided above. If payment is made through the Debenture Trustee, at least one Business Day prior to each Interest Payment Date or the date of mailing the cheques for the interest due on an Interest Payment Date, whichever is earlier, the Company shall deliver sufficient funds to the Debenture Trustee by electronic transfer or make such other arrangements for the provision of funds as may be agreeable between the Debenture Trustee and the Company in order to effect such interest payment hereunder. The Debenture Trustee shall disburse such interest payments only upon receiving, at least one Business Day prior to each such date, funds in an amount sufficient for the interest payment. Notwithstanding the foregoing, all payments in excess of \$25 million in Canadian dollars (or such other amount as determined from time to time by the Canadian Payments Association) shall be made by the use of the LVTS. The Debenture Trustee shall have no obligation to disburse funds pursuant to this Section 2.14 until it has received written confirmation satisfactory to it that the funds have been deposited with it in sufficient amount to pay in full all amounts due and payable with respect to such Interest Payment Date. The Debenture Trustee shall, if any funds are received by it in the form of uncertified cheques, be entitled to delay the time for release of such funds until such uncertified cheques shall be determined to have cleared the financial institution upon which the same are drawn.
- (b) Notwithstanding Section 2.14(a), if a series of Debentures is represented by a Global Debenture, then all cash payments of interest on the Global Debenture shall be made by electronic funds transfer to the Depository or its nominee for subsequent payment to Beneficial Holders of interests in that Global Debenture, unless the Company and the Depository otherwise agree. None of the Company, the Debenture Trustee or any agent of the Debenture Trustee for any Debenture issued

as a Global Debenture will be liable or responsible to any Person for any aspect of the records related to or payments made on account of beneficial interests in any Global Debenture or for maintaining, reviewing, or supervising any records relating to such beneficial interests.

2.15 Withholding Tax

For greater certainty, the Company will be entitled to deduct and withhold any applicable taxes or similar charges (including interest, penalties or similar amounts in respect thereof) imposed or levied by or on behalf of the Canadian government or of any province or territory thereof or any authority or agency therein or thereof having power to tax, including pursuant to the Tax Act, from any payment to be made on or in connection with the Debentures (including liquidating any payment in the form of property) and, provided that the Company forthwith remits such withheld amount to such government, authority or agency and files all required forms in respect thereof and, at the same time, provides copies of such remittance and filing to the Debenture Trustee (who shall provide copies of such remittance and filing to the relevant Debentureholder), the amount of any such deduction or withholding will be considered an amount paid in satisfaction of the Company's obligations under the Debentures and there is no obligation on the Company to gross-up amounts paid to a holder in respect of such deductions or withholdings. The Company shall provide the Debenture Trustee with copies of receipts or other communications relating to the remittance of such withheld amount or the filing of such forms received from such government, authority or agency promptly after receipt thereof (and the Debenture Trustee shall provide copies of such receipts or other communications to the relevant Debentureholder). The holders of Debentures (and the successive respective holders of such Debentures) shall be responsible for any taxes associated with the Debentures, including in respect of any interest payments.

The Debenture Trustee shall have no obligation to verify any payments under the Tax Act or any provision of provincial, state, local or foreign tax Law. Subject to Section 12.15(c), the Debenture Trustee shall at all times be indemnified and held harmless by the Company from and against any personal liabilities of the Debenture Trustee incurred in connection with the failure of the Company or its agents, to report, remit or withhold taxes as required by the Tax Act or otherwise failing to comply with the Tax Act. This indemnification shall survive the resignation or removal of the Debenture Trustee and the termination of this Indenture solely to the extent that such liabilities have been incurred in connection with taxation years occurring during the term of this Indenture.

ARTICLE 3 REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP

3.1 Fully Registered Debentures

- (a) With respect to each series of Debentures issuable as Fully Registered Debentures, the Company shall cause to be kept by and at the principal office of the Debenture Trustee in Toronto, Ontario and by the Debenture Trustee or such other registrar as the Company, with the approval of the Debenture Trustee, may appoint at such other place or places, if any, as may be specified in the Debentures of such series or as the Company may designate with the approval of the Debenture Trustee, a register (the "Register") in which shall be entered the names and addresses of the holders of Fully Registered Debentures and particulars of the Debentures held by them respectively, including the applicable Payment Amount, and of all transfers of Fully Registered Debentures. Such registration shall be noted on the Debentures by the Debenture Trustee or other registrar unless a new Debenture shall be issued upon such transfer.
- (b) No transfer of a Fully Registered Debenture shall be valid unless made on the Register referred to in Section 3.1(a) by the registered holder of such Debenture or such holder's executors, administrators or other legal representatives or an attorney duly appointed by an instrument in writing in form and substance and execution satisfactory to the Debenture Trustee or other registrar upon surrender of the Debentures together with a duly executed form of transfer acceptable to the Debenture Trustee and upon compliance with the terms of the Debentures and such other reasonable requirements as the Company, Debenture Trustee or other registrar may prescribe, nor unless the name of the transferee shall have been noted on the Debenture by the Debenture Trustee or other registrar. In the event that a Debenture becomes subject to transfer in

part only, upon surrender of such Debenture, the Debenture Trustee shall execute and deliver to the Debentureholder and its transferee, as applicable, two or more Debentures representing the principal amount of such surrendered Debenture, with the applicable Payment Amounts recorded on the Register.

3.2

Global Debentures

- (a) With respect to each series of Debentures issuable in whole or in part as one or more Global Debentures, the Company shall cause to be kept by and at the principal offices of the Debenture Trustee in Toronto, Ontario or such other registrar as the Company, with the approval of the Debenture Trustee, may appoint at such other place or places, if any, as the Company may designate with the approval of the Debenture Trustee, a register (the "Register") in which shall be entered the name and address of the holder of each such Global Debenture (being the Depository, or its nominee, for such Global Debenture) as holder thereof and particulars of the Global Debenture held by it, including the applicable Payment Amount, and of all transfers thereof. If any Debentures of such series are at any time not Global Debentures, the provisions of Section 3.1 shall govern with respect to registrations and transfers of such Debentures.
- (b) Notwithstanding any other provision of this Indenture, a Global Debenture may not be transferred by the registered holder thereof and accordingly, no security certificates shall be issued to Beneficial Holders of interests in such Global Debenture except in the following circumstances or as otherwise specified in a resolution of the directors of the Company, an Officer's Certificate or supplemental indenture relating to a particular series of Debentures:
 - (i) Global Debentures may be transferred by a Depository to a nominee of such Depository or by a nominee of a Depository to such Depository or to another nominee of such Depository or by a Depository or its nominee to a successor Depository or its nominee;
 - (ii) Global Debentures may be transferred at any time after the Depository for such Global Debentures (i) has notified the Debenture Trustee, or the Company has notified the Debenture Trustee, that it is unwilling or unable to continue as Depository for such Global Debentures, or (ii) ceases to be eligible to be a Depository under Section 2.6(b), provided that at the time of such transfer the Company has not appointed a successor Depository for such Global Debentures;
 - (iii) Global Debentures may be transferred at any time after the Debenture Trustee has determined that an Event of Default has occurred and is continuing with respect to the Debentures of the series issued as such Global Debenture, provided that Beneficial Holders representing, in the aggregate, not less than 25% of the aggregate Payment Amount of the Debentures of such series issued as such Global Debenture advise the Depository in writing, through the Depository Participants, that the continuation of the book-entry only registration system for such series of Global Debentures is no longer in their best interest and also provided that at the time of such transfer the Debenture Trustee has not waived the Event of Default pursuant to Section 7.3;
 - (iv) Global Debentures may be transferred if required by applicable law; or
 - (v) Global Debentures may be transferred if the book-entry only registration system ceases to exist.

Fully Registered Debentures issued pursuant to this Section 3.2(b) shall be registered in such names and in such denominations as the Depository, pursuant to instructions from its Depository Participants or otherwise shall instruct the Debenture Trustee provided that the aggregate principal amount or Payment Amount, as applicable, of Fully Registered Debentures is equal to the principal amount or Payment Amount, as applicable, of the Global Debenture so exchanged. The Debenture Trustee shall deliver such Fully Registered Debentures to or as directed by the

Beneficial Holders of the Global Debenture so exchanged. Upon exchange of a Global Debenture for Debentures in definitive form such Global Debentures shall be cancelled by the Debenture Trustee.

- (c) With respect to the Global Debentures, unless and until definitive certificates have been issued to Beneficial Holders of interests in such Global Debentures pursuant to subsection 3.2(b):
- (i) the Company and the Debenture Trustee may deal with the Depository for all purposes (including, without limitation, paying interest on the Debentures whether by adding such interest to the Payment on the Register, by issuing Shares or making a cash payment) as the sole holder of such series of Debentures and the authorized representative of the Beneficial Holders;
 - (ii) the rights of the Beneficial Holders shall be exercised only through the Depository and shall be limited to those established by law and agreements between such Beneficial Holders and the Depository or the Depository Participants;
 - (iii) the Depository will make book entry transfers among the Depository Participants, provided that in respect of the Initial Debentures any transfer among Beneficial Holders made in violation of Section 2.4(f), shall be deemed to not have occurred, and the Company shall not be affected or bound by any such transfer; and
 - (iv) whenever this Indenture requires or permits actions to be taken based upon instructions or directions of Debentureholders evidencing a specified percentage of the outstanding Debentures, the Depository shall be deemed to be counted in that percentage only to the extent that it has received instructions to such effect from the Beneficial Holders or the Depository Participants, and has delivered such instructions to the Debenture Trustee.
- (d) Whenever a notice or other communication is required to be provided to Debentureholders, unless and until definitive certificate(s) have been issued to Beneficial Holders pursuant to this Section 3.2, the Debenture Trustee shall provide all such notices and communications to the Depository and the Depository shall deliver such notices and communications to such Beneficial Holders in accordance with Applicable Securities Legislation. Upon the termination of the book-entry only registration system on the occurrence of one of the conditions specified in Section 3.2(b) with respect to a series of Debentures issued hereunder, the Debenture Trustee shall notify all applicable Beneficial Holders, through the Depository, of the availability of definitive Debenture certificates. Upon surrender by the Depository of the certificate(s) representing the Global Debentures and receipt of new registration instructions from the Depository, the Debenture Trustee shall deliver the definitive Debenture certificates for such Debentures to the holders thereof in accordance with the new registration instructions and thereafter, the registration and transfer of such Debentures will be governed by Section 3.1 and the remaining Sections of this Article 3.
- (e) Notwithstanding anything herein or in the terms of the Debentures to the contrary, neither the Company nor the Debenture Trustee nor any agent thereof shall have any responsibility or liability for (i) any aspect of the records maintained by any Depository relating to any securities entitlements or any other interests in the Debentures or to the depository system maintained by such Depository, or payment made on account of any securities entitlements or any other interest of any Person in any Global Debenture (other than the applicable Depository or its nominee), (ii) for maintaining, supervising or reviewing any records of any Depository or any Depository Participant relating to any Debentures, or (iii) any advice or representation made by or with respect to any Depository and relating to the rules governing any Depository or any action to be taken by any Depository on its own direction or at the discretion of any of its Depository Participants.

3.3 Transferee Entitled to Registration

The transferee of a Debenture shall be entitled, after the appropriate form of transfer is lodged with the Debenture Trustee or other registrar and upon compliance with all other conditions in that regard required by this Indenture or by Law, to be entered on the register as the owner of such Debenture free from all equities or rights of set-off or counterclaim between the Company and the transferor or any previous holder of such Debenture, save in respect of equities of which the Company is required to take notice by statute or by order of a court of competent jurisdiction.

3.4 No Notice of Trusts

Neither the Company nor the Debenture Trustee nor any registrar shall be bound to take notice of or see to the execution of any trust (other than the trust created by this Indenture) whether express, implied or constructive, in respect of any Debenture, and subject to Section 3.2(b) in respect of a Global Debenture and subject to Section 2.4(f) in respect of the Initial Debentures, may transfer the same on the direction of the Person registered as the holder thereof, whether named as trustee or otherwise, as though that Person were the Beneficial Holder thereof.

3.5 Registers Open for Inspection

The Registers referred to in Sections 3.1 and Section 3.2 shall during regular business hours be open for inspection by the Company, the Debenture Trustee or any Debentureholder. Every registrar, including the Debenture Trustee, shall from time to time when requested so to do by the Company or by the Debenture Trustee, in writing, furnish the Company or the Debenture Trustee, as the case may be, with a list of names and addresses of holders of registered Debentures entered on the register kept by them and showing the principal amount and serial numbers of the Debentures held by each such holder, provided the Debenture Trustee shall be entitled to charge a reasonable fee to provide such a list.

3.6 Exchanges of Debentures

- (a) Subject to Section 3.7, Debentures in any authorized form or denomination, other than Global Debentures, may be exchanged for Debentures in any other authorized form or denomination, of the same series and date of maturity, bearing the same interest rate and of the same aggregate principal amount as the Debentures so exchanged.
- (b) In respect of exchanges of Debentures permitted by Section 3.6(a), Debentures of any series may be exchanged only at the principal offices of the Debenture Trustee in the city of Toronto, Ontario or at such other place or places, if any, as may be specified in the Debentures of such series and at such other place or places as may from time to time be designated by the Company with the approval of the Debenture Trustee. Any Debentures tendered for exchange shall be surrendered to the Debenture Trustee. The Company shall execute and the Debenture Trustee shall certify all Debentures necessary to carry out exchanges as aforesaid. All Debentures surrendered for exchange shall be cancelled.
- (c) Debentures issued in exchange for Debentures which at the time of such issue have been selected or called for redemption at a later date shall be deemed to have been selected or called for redemption in the same manner and shall have noted thereon a statement to that effect.

3.7 Closing of Registers

- (a) Neither the Company nor the Debenture Trustee nor any other registrar shall be required to:
 - (i) make transfers or exchanges of any Debentures on any Interest Payment Date for such Debentures or during the five preceding Business Days;

- (ii) make transfers or exchanges of any Debentures on the day of any selection by the Debenture Trustee of Debentures to be redeemed or during the five preceding Business Days; or
 - (iii) make exchanges of any Debentures which will have been selected or called for redemption unless upon due presentation thereof for redemption such Debentures shall not be redeemed.
- (b) Subject to any restriction herein provided, the Company with the approval of the Debenture Trustee may at any time close any register for any series of Debentures, other than those kept at the principal offices of the Debenture Trustee in Toronto, Ontario, and transfer the registration of any Debentures registered thereon to another register (which may be an existing register) and thereafter such Debentures shall be deemed to be registered on such other register. Notice of such transfer shall be given to the holders of such Debentures.

3.8 Charges for Registration, Transfer and Exchange

For each Debenture exchanged, registered, transferred or discharged from registration, the Debenture Trustee or other registrar, except as otherwise herein provided, may make a reasonable charge for its services and in addition may charge a reasonable sum for each new Debenture issued (such amounts to be agreed upon from time to time by the Debenture Trustee and the Company), and payment of such charges and reimbursement of the Debenture Trustee or other registrar for any stamp taxes or governmental or other charges required to be paid shall be made by the party requesting such exchange, registration, transfer or discharge from registration as a condition precedent thereto. Notwithstanding the foregoing provisions, no charge shall be made to a Debentureholder hereunder:

- (a) for any exchange, registration, transfer or discharge from registration of any Debenture applied for within a period of two months from the date of the first delivery of Debentures of that series or, with respect to Debentures subject to a Periodic Offering, within a period of two months from the date of delivery of any such Debenture;
- (b) for any exchange of a Global Debenture as contemplated in Section 3.2(b); or
- (c) for any exchange of any Debenture resulting from a partial redemption under Section 4.2 or a partial purchase under Section 4.8.

3.9 Ownership of Debentures

- (a) Subject to Section 2.4(f) in respect of the Initial Debentures and unless otherwise required by Law, the Person in whose name any registered Debenture is registered shall for all the purposes of this Indenture be and be deemed to be the owner thereof and payment of or on account of the Payment Amount on such Debenture and interest thereon (including any Global Debenture) shall be made to such registered holder.
- (b) The registered holder for the time being of any registered Debenture shall be entitled to the Payment Amount and/or interest evidenced by such Debenture free from all equities or rights of set-off or counterclaim between the Company and the original or any intermediate holder thereof and all Persons may act accordingly and the receipt of any such registered holder (including by the Depository or its nominee in the case of a Global Indenture) for such Payment Amount or interest shall be a good discharge to the Company and/or the Debenture Trustee and any registrar for the same and none of the Company, the Debenture Trustee nor any other registrar shall be bound to inquire into the title of any such registered holder.
- (c) Where Debentures are registered in more than one name, the Payment Amount and interest from time to time payable in respect thereof may be paid to the order of all such holders, failing written

instructions from them to the contrary, and the receipt of any one of such holders therefor shall be a valid discharge, to the Debenture Trustee, any registrar and to the Company.

- (d) In the case of the death of one or more joint holders of any Fully Registered Debenture, the Payment Amount and interest from time to time payable thereon may be paid to the order of the survivor or survivors of such registered holders and the receipt of any such survivor or survivors therefor shall be a valid discharge to the Debenture Trustee and any registrar and to the Company.

ARTICLE 4

REDEMPTION, REPAYMENT AND PURCHASE OF DEBENTURES

4.1 Applicability of Article

Subject to any required regulatory approval or any applicable shareholder approval, the Company shall have the right at its option to redeem, at any time, either in whole or in part from time to time before the Maturity Date, by payment of money, any Debentures issued hereunder of any series which by their terms are made so redeemable (subject, however, to any applicable restriction on the redemption of Debentures of such series) at such rate or rates of premium, if any, and on such date or dates and in accordance with such other provisions as shall have been determined at the time of issue of such Debentures and as shall have been expressed in this Indenture, in the Debentures, in an Officer's Certificate, or in a supplemental indenture authorizing or providing for the issue thereof, or in the case of Additional Debentures issued pursuant to a Periodic Offering, in the Written Direction of the Company requesting the certification and delivery thereof. Subject to any required regulatory approval or any applicable shareholder approval, the Company shall also have the right at its option to repay, either in whole or in part, on maturity, by payment of money in accordance with Section 2.12, any Debentures issued hereunder of any series which by their terms are made so repayable on maturity (subject however, to any applicable restriction on the repayment of the principal amount of the Debentures of such series) at such rate or rates of premium, if any, and on such date or dates and in accordance with such other provisions as shall have been determined at the time of issue of such Debenture and shall have been expressed in this Indenture, in the Debentures, in an Officer's Certificate, or in a supplemental indenture authorizing or providing for the issue thereof, or in the case of Additional Debentures issued pursuant to a Periodic Offering, in the Written Direction of the Company requesting the certification and delivery thereof.

4.2 Partial Redemption

If less than all the Debentures of any series for the time being outstanding are at any time to be redeemed, the Debentures to be so redeemed shall be selected by the Debenture Trustee on a *pro rata* basis to the nearest multiple of \$1,000 in accordance with the Payment Amount of the Debentures registered in the name of each holder or in such other manner as the Debenture Trustee deems equitable, subject to regulatory approval, if any. Unless otherwise specifically provided in the terms of any series of Debentures, no Debenture shall be redeemed in part unless the Payment Amount redeemed is \$1,000 or a multiple thereof. For this purpose, the Debenture Trustee may make, and from time to time vary, regulations with respect to the manner in which such Debentures may be drawn for redemption in part and regulations so made shall be valid and binding upon all holders of such Debentures notwithstanding the fact that as a result thereof one or more of such Debentures may become subject to redemption in part only or for cash only. In the event that one or more of such Debentures becomes subject to redemption in part only, upon surrender of any such Debentures for payment of the Redemption Price, the Company shall execute and the Debenture Trustee shall certify and deliver without charge to the holder thereof or upon the holder's order one or more new Debentures for the unredeemed part of the Payment Amount of the Debenture or Debentures so surrendered, with the applicable Payment Amount recorded on the Register in respect of such Debenture or Debentures, or with respect to a Global Debenture, the Depository shall make notations on the Global Debenture of the applicable Payment Amount thereof so redeemed which notation shall be authenticated by the Debenture Trustee. Unless the context otherwise requires, the terms "Debenture" or "Debentures" as used in this Article 4 shall be deemed to mean or include any part of the principal amount of any Debenture which in accordance with the foregoing provisions has become subject to redemption.

4.3 Notice of Redemption

Notice of redemption (the "Redemption Notice") of any series of Debentures shall be given to the Debenture Trustee and the holders of the Debentures so to be redeemed not more than 60 days nor less than 30 days prior to the date fixed for redemption (the "Redemption Date") in the manner provided in Section 3.2(d) or Section 11.2, as applicable. Every Redemption Notice shall specify the aggregate principal amount and Payment Amount of Debentures called for redemption, the Redemption Date, the Redemption Price and the places of payment and shall state that interest upon the Payment Amount of Debentures called for redemption shall cease to be payable from and after the Redemption Date.

4.4 Debentures Due on Redemption Dates

Notice having been given as aforesaid, all of the Debentures so called for redemption shall thereupon be and become due and payable at the Redemption Price on the Redemption Date specified in such notice, in the same manner and with the same effect as if it were the Maturity Date specified in such Debentures, anything therein or herein to the contrary notwithstanding, and from and after such Redemption Date, if the monies necessary to redeem, such Debentures shall have been deposited as provided in Section 4.5 and affidavits or other proof satisfactory to the Debenture Trustee as to the publication and/or mailing of such Redemption Notices shall have been lodged with it, interest upon the Debentures shall cease. If any question shall arise as to whether any notice has been given as provided in Section 4.3 and such deposit made, such question shall be decided by the Debenture Trustee whose decision shall be final and binding upon all parties in interest. The Debenture Trustee shall have no obligation to verify or calculate the Redemption Price.

4.5 Deposit of Redemption Monies

Redemption of Debentures shall be provided for by the Company depositing with the Debenture Trustee or any paying agent to the order of the Debenture Trustee, on or before 11:00 a.m. (Toronto time) on the Business Day immediately prior to the Redemption Date specified in such Redemption Notice, such sums of money as is sufficient to pay the Redemption Price of the Debentures so called for redemption, provided the Company may elect to satisfy this requirement by providing the Debenture Trustee with a certified cheque or bank draft for such amounts required under this Section 4.5 post-dated to the Redemption Date. The Company shall also deposit with the Debenture Trustee a sum of money sufficient to pay any charges or expenses which may be incurred by the Debenture Trustee in connection with such redemption. Every such deposit shall be irrevocable. From the sums so deposited, the Debenture Trustee shall pay or cause to be paid, (i) in the case of a Global Debenture, to the Depository upon the Depository making the appropriate notation in respect of the Payment Amount of the Debentures so redeemed, which notation shall be authenticated by the Debenture Trustee, or (ii) in the case of Fully Registered Debentures to the holders of such Debentures so called for redemption, upon surrender of such Debentures, the Redemption Price to which they are respectively entitled on redemption.

Payment of funds to the Debenture Trustee shall be made by electronic transfer or pursuant to such other arrangements for the provision of funds as may be agreeable between the Debenture Trustee and the Company in order to effect such redemption payment hereunder. The Debenture Trustee shall disburse such redemption proceeds only upon receiving, at least one Business Day prior to each Redemption Date, funds in an amount sufficient to pay the aggregate Redemption Price that is payable in cash on redemption. Notwithstanding the foregoing, i) all payments in excess of \$25 million in Canadian dollars (or such other amount as determined from time to time by the Canadian Payments Association) shall be made by the use of the LVTS; and ii) in the event that payment must be made to the Depository, the Company shall remit payment to the Debenture Trustee by LVTS. The Debenture Trustee shall have no obligation to disburse funds pursuant to this Section 4.5 unless it has received written confirmation satisfactory to it that the funds have been deposited with it in sufficient amount to pay the aggregate Redemption Price that is payable in cash on redemption. The Debenture Trustee shall, if any funds are received by it in the form of uncertified cheques, be entitled to delay the time for release of such funds until such uncertified cheques shall be determined to have cleared the financial institution upon which the same are drawn.

4.6 Failure to Surrender Debentures Called for Redemption

In case the holder of any Debenture so called for redemption shall fail on or before the Redemption Date so to surrender such holder's Debenture, or shall not within such time accept payment of the

redemption monies payable, or give such receipt therefor, if any, as the Debenture Trustee may require, such redemption monies may be set aside in trust with or without interest, and such setting aside shall for all purposes be deemed a payment to the Debentureholder of the sum so set aside and, to that extent, the Debenture shall thereafter not be considered as outstanding hereunder and the Debentureholder shall have no other right except to receive payment out of the monies so paid and deposited upon surrender and delivery up of such holder's Debenture of the Redemption Price of such Debenture. In the event that any money required to be deposited hereunder with the Debenture Trustee or any depository or paying agent on account of Redemption Price on Debentures issued hereunder shall remain so deposited for a period of six years from the Redemption Date, then such monies together with any accumulated interest thereon, shall at the end of such period be paid over or delivered over by the Debenture Trustee or such Depository or paying agent to the Company on its demand, and thereupon the Debenture Trustee shall not be responsible to Debentureholders for any amounts owing to them and subject to applicable Law, thereafter the holder of a Debenture in respect of which such money was so repaid to the Company shall have no rights in respect thereof except to obtain payment of the money subject to any limitation period provided by the Laws of Ontario.

4.7 Cancellation of Debentures Redeemed

Subject to the provisions of Sections 4.2 and 4.8 as to Debentures redeemed or purchased in part, all Debentures redeemed and paid under this Article 4 shall forthwith be delivered to the Debenture Trustee and cancelled and no Debentures shall be issued in substitution therefor.

4.8 Purchase of Debentures by the Company

The Company may purchase Debentures in the market (which shall include purchases from or through an investment dealer or a firm holding membership on a Recognized Stock Exchange) or by tender or by private contract, at any price; provided that, if an Event of Default has occurred and is continuing, the Company will not have the right to purchase the Debentures by private contract. All Debentures so purchased may, at the option of the Company, be delivered to the Debenture Trustee and shall be cancelled and no Debentures shall be issued in substitution therefor.

If, upon an invitation for tenders, more Debentures are tendered at the same lowest price than the Company is prepared to accept, the Debentures to be purchased by the Company shall be selected by the Debenture Trustee on a *pro rata* basis, if applicable, or in such other manner consented to by the Toronto Stock Exchange (or any other stock exchange on which the Debentures may be listed, if any) which the Debenture Trustee considers appropriate, from the Debentures tendered by each tendering Debentureholder who tendered at such lowest price. For this purpose the Debenture Trustee may make, and from time to time amend, regulations with respect to the manner in which Debentures may be so selected, and regulations so made shall be valid and binding upon all Debentureholders, notwithstanding the fact that as a result thereof one or more of such Debentures become subject to purchase in part only. The holder of a Debenture of which a part only is purchased, upon surrender of such Debenture for payment, shall be entitled to receive, without expense to such holder, one or more new Debentures for the unpurchased part so surrendered, and the Debenture Trustee shall certify and deliver such new Debenture or Debentures upon receipt of the Debenture or Debentures so surrendered with the applicable Payment Amount recorded on the Register, or, with respect to a Global Debenture, the Depository shall make notations on the Global Debenture of the Payment Amount thereof so purchased, which notations shall be authenticated by the Debenture Trustee

ARTICLE 5 SUBORDINATION OF DEBENTURES

5.1 Applicability of Article

The indebtedness, liabilities and obligations of the Company hereunder (except as provided in Section 12.15) or under the Debentures, whether on account of principal, interest or otherwise, (collectively the "Debenture Liabilities"), shall be fully and effectively subordinated and postponed and subject in right of payment, to the extent and in the manner hereinafter set forth in the following sections of this Article 5, to the full and final payment of all Senior Indebtedness of the Company and each holder of any such Debenture by his acceptance thereof agrees to and shall be bound by the provisions of this Article 5.

The Senior Indebtedness shall continue to be Senior Indebtedness and shall be entitled to the benefits of this Article 5 irrespective of any amendment, modification or waiver of any term (other than a release, discharge or other event that results in the applicable Indebtedness no longer being Senior Indebtedness) of such Senior Indebtedness and notwithstanding that no express written subordination agreement may have been entered into between the holders of such Senior Indebtedness and the Debenture Trustee or any of the Debentureholders.

5.2 Order of Payment

In the event of any voluntary or involuntary dissolution, winding-up or liquidation, or any bankruptcy, insolvency, receivership, creditor enforcement or realization or other similar proceedings relating to the Company or any of its property (whether voluntary or involuntary, partial or complete) or any other marshalling of the assets and liabilities of the Company, any reorganization or any sale, distribution or other transfer of all or substantially all of the assets of the Company:

- (a) all Senior Indebtedness shall first be paid in full, or provision made for such payment, before any payment or distribution is made on account of the Debenture Liabilities;
- (b) any payment or distribution of assets of the Company, whether in cash, property or securities, to which the holders of the Debentures or the Debenture Trustee on behalf of such holders would be entitled except for the provisions of this Article 5, shall be paid or delivered by the trustee in bankruptcy, receiver, assignee for the benefit of creditors, or other liquidating agent making such payment or distribution, directly to the holders of Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Senior Indebtedness may have been issued, to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness before any payment or distribution is made to the Debentureholders or the Debenture Trustee; and
- (c) the Senior Creditors or a receiver or a receiver-manager of the Company or of all or part of its assets or any other enforcement agent may sell, mortgage, or otherwise dispose of the Company assets in whole or in part, free and clear of all Debenture Liabilities and without the approval of the Debentureholders or the Debenture Trustee or any requirement to account to the Debenture Trustee or the Debentureholders except in respect of any excess after discharge of all Senior Indebtedness.

The rights and priority of the Senior Indebtedness and the subordination pursuant hereto shall not be affected by:

- (i) the time, sequence or order of creating, granting, executing, delivering of, or registering, perfecting or failing to register or perfect any security notice, caveat, financing statement or other notice in respect of the Senior Security;
- (ii) the time or order of the attachment, perfection or crystallization of any security constituted by the Senior Security;
- (iii) the taking of any collection, enforcement or realization proceedings pursuant to the Senior Indebtedness;
- (iv) the date of obtaining of any judgment or order of any bankruptcy court or any court administering bankruptcy, insolvency or similar proceedings as to the entitlement of the Senior Creditors, or any of them or the Debentureholders or other Trustee or any of them to any money or property of the Company;
- (v) the failure to exercise any power or remedy reserved to the Senior Creditors under documents evidencing the Senior Indebtedness or under the Senior Security or to insist upon a strict compliance with any terms thereof;

- (vi) whether any Senior Security is now perfected, hereafter ceases to be perfected, is avoidable by any trustee in bankruptcy or like official or is otherwise set aside, invalidated or lapses;
- (vii) the date of giving or failing to give notice to or making demand upon the Company; or
- (viii) any other matter whatsoever.

5.3 Subrogation to Rights of Holders of Senior Indebtedness

Subject to the irrevocable and unconditional prior payment in full of all Senior Indebtedness, the holders of the Debentures shall be subrogated to the rights of the holders of Senior Indebtedness or their representative or representatives, or the trustee or trustees under any indenture pursuant to which any instrument evidencing any such Senior Indebtedness may have been issued, to receive payments or distributions of assets of the Company to the extent of the application thereto of such payments or other assets which would have been received by the holders of the Debentures but for the provisions hereof until the Payment Amount of, and accrued and unpaid interest on, the Debentures shall be paid in full, and no such payments or distributions to the holders of the Debentures of cash, property or securities, which otherwise would be payable or distributable to the holders of the Senior Indebtedness, shall, as between the Company, its creditors other than the holders of Senior Indebtedness, and the holders of Debentures, be deemed to be a payment by the Company to the holders of the Senior Indebtedness or on account of the Senior Indebtedness, it being understood that the provisions of this Article 5 are and are intended solely for the purpose of defining the relative rights of the holders of the Debentures, on the one hand, and the holders of Senior Indebtedness, on the other hand.

The Debenture Trustee, for itself and on behalf of each of the Debentureholders, hereby waives any and all rights to require a Senior Creditor to pursue or exhaust any rights or remedies with respect to the Company or any property and assets subject to the Senior Security or in any other manner to require the marshalling of property, assets or security in connection with the exercise by the Senior Creditors of any rights, remedies or recourses available to them.

5.4 Obligation to Pay Not Impaired

Nothing contained in this Article 5 or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as between the Company, its creditors other than the holders of Senior Indebtedness, and the holders of the Debentures, the obligation of the Company, which is absolute and unconditional, to pay to the holders of the Debentures the aggregate of all Payment Amounts, including unpaid interest on, the Debentures, as and when the same shall become due and payable in accordance with their terms, or affect the relative rights of the holders of the Debentures and creditors of the Company other than the holders of the Senior Indebtedness, nor shall anything herein or therein prevent the Debenture Trustee or the holder of any Debenture from exercising all remedies otherwise permitted by applicable Laws or under this Indenture upon default under this Indenture, subject to the rights, if any, under this Article 5 of the holders of Senior Indebtedness.

5.5 No Payment if Senior Indebtedness in Default

- (a) No payment of any Payment Amount of, or interest (or any other amounts payable) in respect of the Debentures (including the Initial Debentures) or in respect of any Redemption Price or Offer Price in respect of any such Debentures may be made, and neither the Debenture Trustee nor any Debentureholder will be entitled to make demand, accelerate, take any enforcement action of any nature whatsoever, exercise any remedy or institute proceedings (other than as may be necessary to preserve a limitation period) for the collection of, or receive any payment or benefit (including, without limitation, by setoff, combination of accounts or realization of security or otherwise in any manner whatsoever) on account of Indebtedness represented by the Debentures:
 - (i) in a manner inconsistent with the terms (as they exist on the date of issue) of the Debentures;

- (ii) at any time when an event of default has occurred under Senior Indebtedness, and such event of default is continuing and notice of such event of default has been given by or on behalf of the holders of such Senior Indebtedness to the Company unless and until such Senior Indebtedness has been paid and satisfied in full or such event of default shall have been cured or waived in writing in accordance with the provisions of such Senior Indebtedness; or
 - (iii) if the making of any such payment or the taking of any such action would create (including if by the lapse of time or giving of notice), an event of default under any Senior Indebtedness unless and until such Senior Indebtedness has been satisfied in full or the making of any such payment or taking of such action would no longer create (including if by the lapse of time or giving of notice), an event of default under any Senior Indebtedness.
- (b) If, notwithstanding Section 5.2(b) or 5.5(a), the Debenture Trustee is notified or has actual knowledge (without due inquiry) that it has received payment when such payment should have been paid to the holders of Senior Indebtedness pursuant to Section 5.2(b) or when payment under the Debentures is prohibited by Section 5.5(a), as the case may be, but not otherwise, such payment shall be held in trust for the benefit of, and shall be paid or delivered to, the holders of the Senior Indebtedness or their respective representative or representatives, or to the trustee or trustees under which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Company, to the extent necessary to pay such Senior Indebtedness in full, in cash, after giving effect to any other concurrent payment or distribution to or for the benefit of the holders of such Senior Indebtedness.

5.6 Payment on Debentures Permitted

Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall affect the obligation of the Company to make, or prevent the Company from making, at any time except as prohibited by Section 5.5, any payment of Payment Amount of, or interest on, the Debentures, including as part of any Redemption Price. The fact that any such payment is prohibited by Section 5.5 shall not prevent the failure to make such payment from being an Event of Default hereunder. Except as prohibited by Section 5.5, nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall prevent the application by the Debenture Trustee of any monies deposited with the Debenture Trustee hereunder for the purpose, to the payment of or on account of the Debenture Liabilities.

5.7 Confirmation of Subordination

Each holder of Debentures by his or her acceptance of the Debentures authorizes and directs the Debenture Trustee on his behalf to take such action as may be necessary or appropriate to effect the subordination as provided in this Article 5 and appoints the Debenture Trustee his attorney-in-fact for any and all such purposes (and the successive respective holders of the Debentures by taking and holding the same shall be conclusively deemed to have so appointed the Debenture Trustee). Upon request of the Company, and upon being furnished with an Officer's Certificate stating that one or more named Persons are Senior Creditors, or is the representative or representatives of such Senior Creditors, or is the trustee or trustees under which any instrument evidencing such Senior Indebtedness may have been issued, and specifying the amount and nature of the Senior Indebtedness of such Senior Creditor, the Debenture Trustee shall enter into a written agreement or agreements with the Company and the Person or Persons named in such Officer's Certificate to more fully specify the terms and conditions of the subordination set out in the Indenture, or in any of the Debentures. Such agreement shall be conclusive evidence that the Indebtedness specified therein is Senior Indebtedness, provided that nothing therein shall affect the subordination provisions contained herein or impair the rights of any Senior Creditor who has not entered into such an agreement to rely upon and enforce such subordination provisions. In addition, as attorney-in-fact for the Debentureholders (and the successive respective holders of the Debentures) as provided herein, the Debenture Trustee shall have the right, including, without limitation, to execute an acknowledgement of subordination, in the form set out in Schedule "E" hereto or any variations thereof, for the benefit of Senior Creditors from time to time.

5.8 Knowledge of Debenture Trustee

Notwithstanding the provisions of this Article 5 or any provision in this Indenture or in the Debentures, the Debenture Trustee will not be charged with knowledge of any Senior Indebtedness (other than the First Lien Senior Secured Notes) or of any default in the payment thereof, or of the existence of any other fact that would prohibit the making of any payment of monies to or by the Debenture Trustee, or the taking of any other action by the Debenture Trustee, unless and until the Debenture Trustee has received written notice thereof from the Company, any Debentureholder or any Senior Creditor.

5.9 Rights of Debentureholders of Senior Indebtedness Not Impaired

No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any non-compliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

5.10 Altering the Senior Indebtedness

The holders of the Senior Indebtedness have the right to extend, renew, modify, supplement, amend or amend and restate the terms of the Senior Indebtedness or any security therefor and to release, sell or exchange such security and otherwise to deal freely with the Company, all without notice to or consent of the Debentureholders or the Debenture Trustee and without affecting the provisions of this Article 5 or the other liabilities and obligations of the parties to this Indenture or the Debentureholders or the Debenture Trustee.

5.11 Additional Indebtedness

Subject to Section 6.14, this Indenture does not restrict the Company from incurring additional Senior Indebtedness or other Indebtedness for borrowed money (including any Indebtedness ranking subordinated or *pari passu* with any Debentures) or otherwise or mortgaging, pledging or charging its properties to secure any Indebtedness. Subject to Section 6.14, neither this Indenture nor any Debenture restricts any Subsidiary of the Company from incurring any Indebtedness, whether secured or unsecured, or whether senior, *pari passu* or subordinated.

5.12 Invalidated Payments

In the event that any of the Senior Indebtedness shall be paid in full and subsequently, for whatever reason, such formerly paid or satisfied Senior Indebtedness becomes unpaid or unsatisfied, the terms and conditions of this Article 5 shall be reinstated and the provisions of this Article 5 shall again be operative until all Senior Indebtedness is repaid in full, provided that such reinstatement shall not give the Senior Creditors any rights or recourses against the Debenture Trustee or the Debentureholders for amounts paid to the Debentureholders more than 2 years following payment to the Debentureholder.

5.13 Contesting Security

The Debenture Trustee, for itself and on behalf of the Debentureholders, agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Security or Senior Indebtedness, or the relative priority of the Senior Security or Senior Indebtedness.

ARTICLE 6 COVENANTS OF THE COMPANY

The Company hereby covenants and agrees with the Debenture Trustee for the benefit of the Debenture Trustee and the Debentureholders, that from the date of issuance of the Initial Debentures and for so long as any Debentures remain outstanding:

6.1 To Pay Payment Amount and Interest, etc.

The Company will duly and punctually pay or cause to be paid to every Debentureholder all amounts payable in respect of the Debentures of which it is the holder including the Payment Amount of and accrued and unpaid interest on, the Debentures and/or if, applicable, the Redemption Price and the Offer Price on the dates, at the places and in the manner described herein and in the Debentures, provided that the Company shall be entitled to defer payment of Initial Debenture Interest Obligation on the Initial Debentures and to add such deferred payment of Initial Debenture Interest Obligation to the Payment Amount as provided in Section 2.4(c)(i), if applicable.

6.2 To Pay Debenture Trustee's Remuneration

The Company will pay the Debenture Trustee reasonable remuneration for its services as Debenture Trustee hereunder in accordance with Section 12.15(a) and will repay to the Debenture Trustee on demand all monies which shall have been paid by the Debenture Trustee in connection with the execution of the trusts hereby created and such monies including the Debenture Trustee's remuneration, shall be payable out of any funds coming into the possession of the Debenture Trustee in priority to payment of any Payment Amount of the Debentures or interest thereon. Such remuneration shall continue to be payable until the trusts hereof be finally wound up and whether or not the trusts of this Indenture shall be in the course of administration by or under the direction of a court of competent jurisdiction.

6.3 To Give Notice of Event of Default

The Company shall notify the Debenture Trustee immediately upon obtaining knowledge of any Event of Default hereunder, or any event which, with the lapse of time or giving of notice, would reasonably be expected to constitute an Event of Default hereunder.

6.4 Preservation of Existence, etc.

Subject to the express provisions hereof, the Company will carry on and conduct its activities, and cause its Subsidiaries to carry on and conduct their Wireless Business, in a proper and business-like manner, and will do or cause to be done all things necessary to maintain its existence. The Company shall ensure that no change is made to the general nature of the Licensee's Wireless Business. The Company shall also cause the Licensee to maintain in full force and effect each of the Spectrum Licenses at all times, except where the ceasing to be in full force and effect of such Spectrum Licenses would not reasonably be expected to be materially adverse to the Company.

6.5 Keeping of Books

The Company will keep or cause to be kept proper books of record and account, in accordance with generally accepted accounting principles as determined by the Canadian Institute of Chartered Accountants and the International Accounting Standards Board.

6.6 To Provide Financial Statements

Prior to an IPO, on or before the 120th day after the end of the Company's most recently completed financial year (in the event of annual financial statements) and on or before the 60th day after the end of the Company's most recently completed quarter (in the event of interim financial statements), the Company will furnish to the Debenture Trustee a copy of all annual and quarterly financial statements of the Company (as applicable) and the report, if any, of the Company's Auditors thereon. From and after an IPO, the Company will furnish to the Debenture Trustee a copy of all consolidated financial statements of the Company, whether annual or interim and the report, if any, of the Company's Auditors thereon and all annual or periodic financial reports of the Company,

which are furnished to the holders of Shares promptly upon the distribution thereof to the holders of the Shares, provided that the Company shall not be required to furnish such statements where holders of Debentures have elected not to receive them in accordance with Applicable Securities Legislation.

6.7 To Pay Taxes

The Company shall pay and discharge all domestic and foreign federal, state, provincial, territorial municipal and local taxes, assessments and other governmental charges, duties, impositions and liabilities imposed by any Governmental Entity upon the Company or its assets within the time period allowed without incurring penalties unless and to the extent that such payment is being contested in good faith.

6.8 To Maintain Insurance

The Company shall ensure that it will maintain insurances on and in relation to its business and assets against those risks and to the extent as is usual for companies carrying on the same or substantially similar business. All insurances must be with reputable independent insurance companies or underwriters.

6.9 To Preserve Assets

The Company shall not, directly or indirectly, enter into a single transaction or a series of transactions (whether related or not and whether voluntary or involuntary) with one or more third Persons acting in concert (not including Affiliates) to sell, lease, transfer or otherwise dispose of all or substantially all of its shares in the capital of the Licensee, or all or substantially all of the assets of the Licensee. For greater certainty, nothing herein shall limit or restrict the Company from reorganizing its share capital on or prior to an IPO, or completing any internal reorganization with its Affiliates.

6.10 To Transact at Arm's Length

The Company shall not enter into any transaction with any non-arm's length person except: (i) on arm's length terms; or (ii) on terms that are more advantageous to the Company than the terms the Company could obtain with an arm's length person.

6.11 Annual Certificate of Compliance

The Company shall deliver to the Debenture Trustee, within 120 days after the end of each calendar year commencing after January 1, 2010, an Officer's Certificate certifying that after reasonable investigation and inquiry, the Company has complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which could, with the giving of notice, lapse of time or otherwise, constitute an Event of Default hereunder, or if such is not the case, setting forth with reasonable particulars the circumstances of any failure to comply and steps taken or proposed to be taken to eliminate such circumstances and remedy such Event of Default, as the case may be.

6.12 No Distributions on Shares

The Company shall not: (i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital); (ii) repay or distribute any dividend or share premium reserve; or (iii) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so. Notwithstanding the foregoing, (x) the Company may make payments or reimbursements of reasonable travel, administrative and legal expenses to each of the Company's shareholders; and (y) nothing herein shall limit or restrict the Company from reorganizing its share capital on or prior to an IPO, or completing any internal reorganization with its Affiliates.

6.13 Performance of Covenants by Debenture Trustee

If the Company shall fail to perform any of its covenants contained in this Indenture, the Debenture Trustee may notify the Debentureholders of such failure on the part of the Company or may itself perform any of the covenants capable of being performed by it, but (subject to Section 7.2 and Section 12.3) shall be under no

obligation to do so or to notify the Debentureholders. All sums so expended or advanced by the Debenture Trustee shall be repayable as provided in Section 6.2. No such performance, expenditure or advance by the Debenture Trustee shall be deemed to relieve the Company of any default hereunder.

6.14 Incurrence of Indebtedness

- (a) The Company will not, and will not permit any of its Subsidiaries to incur any Indebtedness that is both contractually subordinate in right of payment to any Senior Indebtedness of the Company and senior in right of payment to the Debentures.
- (b) The Company will not, and will not permit any of its Subsidiaries to incur "Indebtedness" that is otherwise not "Permitted Debt" as such terms are defined in the First Lien Note Indenture (such will be the case even if the First Lien Note Indenture is terminated or replaced with another indenture or credit facility for any reason at any time).
- (c) For greater certainty, Section 6.14(b) shall not prevent or prohibit the Company or any of its Subsidiaries from refinancing, replacing, amending, extending or otherwise modifying existing "Indebtedness" or creating new "Indebtedness" for so long as the covenant in Section 6.14(b) is satisfied.
- (d) Nothing herein prevents the Company nor a Subsidiary of the Company from creating and issuing any Indebtedness that is fully and effectively subordinated and postponed and subject in right of payment to the full and final payment of the Debentures and that is not guaranteed by the Company or any of its Subsidiaries, provided: (i) the First Lien Note Indenture has been terminated or replaced with another indenture or credit facility and the full amount of all obligations in respect thereof has been satisfied; (ii) the maturity date of any such Indebtedness is later than March 24, 2019; and (iii) the per annum interest rate of such Indebtedness does not exceed 15.0%. While any Debentures remain outstanding, the Company will not, and will not permit any of its Subsidiaries, to make any payment in respect of any principal (including capitalized interest) on such Indebtedness or to redeem or otherwise purchase for cancellation any such Indebtedness.

ARTICLE 7 DEFAULT

7.1 Events of Default

Subject to Section 5.7 and Subject 7.3, each of the following events constitutes, and is herein referred to as, an "Event of Default":

- (a) default for 30 days in the payment when due of interest on the Debentures, provided that in the case of the Initial Debentures, the Company has elected to pay the Initial Debenture Interest Amount in cash in accordance with Section 2.4(c)(i) or Section 2.4(c)(ii)(A), as applicable;
- (b) default in the payment when due (at maturity, upon redemption or otherwise) of the Principal Amount or Payment Amount on the Debentures;
- (c) default under any Indebtedness of the Company (other than Indebtedness referred to in item (vii) of the definition of Indebtedness or a Lien related thereto), provided such default results in the acceleration of more than \$10 million of such Indebtedness in the aggregate prior to its express maturity;
- (d) provided there is no Indebtedness under the First Lien Note Indenture (or another indenture or credit facility governing Senior Indebtedness in lieu thereof) or under any bank Indebtedness at the relevant time, default in the observance or performance of Section 6.2, Section 6.3, Section 6.4,

Section 6.5, Section 6.6, Section 6.7, Section 6.8, Section 6.9, Section 6.10 or Section 6.11 by the Company for a period of 30 days after notice in writing has been given to the Company either by the Debenture Trustee or by the holders of not less than 25% of the Payment Amount of the Debentures specifying such default and requiring the Company to remedy such default;

- (e) default in the observance or performance of Section 6.12 by the Company for a period of 30 days after notice in writing has been given to the Company either by the Debenture Trustee or by the holders of not less than 25% of the Payment Amount of the Debentures specifying such default and requiring the Company to remedy such default;
- (f) the Company or the Licensee:
 - (i) commences a voluntary case of insolvency,
 - (ii) consents to the entry of an order for relief against it in an involuntary case of insolvency,
 - (iii) consents to the appointment of a custodian of it or for all or substantially all of its property,
 - (iv) makes a general assignment for the benefit of its creditors, or
 - (v) is unable to pay its debts as they become due; or
- (g) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
 - (i) is for relief against the Company or the Licensee;
 - (ii) appoints a custodian of the Company or the Licensee or for all or substantially all of the property of the Company or the Licensee; or
 - (iii) orders the liquidation of the Company or the Licensee;

and the order or decree remains unstayed and in effect for 60 consecutive days.

Upon the occurrence of any Event of Default, the Debenture Trustee may, in its discretion, and shall, upon receipt of a request in writing signed by the holders of not less than 25% in Payment Amount of the Debentures then outstanding (or by an ordinary resolution of Debentureholders passed at a meeting held in accordance with Article 10), subject to the provisions of Section 7.3, by notice in writing to the Company declare the Payment Amount of, and accrued and unpaid interest on, all Debentures (and, where such a declaration is based upon a voluntary winding-up or liquidation of the Company, the premium, if any, on the Debentures then outstanding which would have been payable upon the redemption thereof by the Company on the date of such declaration) then outstanding and all other monies outstanding hereunder to be due and payable and the same shall forthwith become immediately due and payable to the Debenture Trustee and, subject to Section 5.5, the Company shall forthwith pay to the Debenture Trustee for the benefit of the Debentureholders such Payment Amount of, accrued and unpaid interest and interest on amounts in default on, the Debentures and all other monies outstanding hereunder, together with subsequent interest at the rate borne by the Debentures on such Payment Amount interest and such other monies from the date of such declaration until payment is received by the Debenture Trustee, such subsequent interest to be payable at the times and places and in the monies mentioned in and according to the terms of the Debentures. Such payment when made shall be deemed to have been made in discharge of the Company's obligations hereunder and any monies so received by the Debenture Trustee shall be applied in the manner provided in Section 7.6.

For the purposes of this Article 7, if an Event of Default under Section 7.1(a) or Section 7.1(b) has occurred only with respect to Debentures of a particular series, then this Article 7 shall apply *mutatis mutandis* to the Debentures of such series and references in this Article 7 to the Debentures shall mean only Debentures of such series and references to the Debentureholders shall refer only to the Debentureholders of such series, as applicable.

7.2 Notice of Events of Default

If an Event of Default shall occur and be continuing the Debenture Trustee shall, within 30 days after it receives written notice of the occurrence (or otherwise becomes aware) of such Event of Default, give notice of such Event of Default to the Debentureholders in the manner provided in Section 3.2(d) or Section 11.2, as applicable, provided that notwithstanding the foregoing, unless the Debenture Trustee shall have been requested to do so by the holders of at least 25% of the Payment Amount of the Debentures then outstanding, the Debenture Trustee shall not be required to give such notice if the Debenture Trustee in good faith shall have determined that the withholding of such notice is in the best interests of the Debentureholders and shall have so advised the Company in writing. For greater certainty, the Debenture Trustee can assume that there is no Event of Default unless it is notified in writing, such notification to distinctly specify the nature of the default.

Where notice of the occurrence of any Event of Default is given by the Debenture Trustee under this Section 7.2 and the Event of Default is thereafter cured, the Debenture Trustee shall, within 20 calendar days after becoming aware of the curing of the Event of Default give notice to the Debentureholders in the manner provided in Section 3.2(d) or Section 11.2, as applicable, that the Event of Default is no longer continuing and shall so advise the Company in writing in the manner provided by Section 11.1.

7.3 Waiver of Default

Upon the happening of any Event of Default hereunder:

- (a) the holders of the Debentures shall have the power (in addition to the powers exercisable by Extraordinary Resolution as hereinafter provided and notwithstanding that the holders of not less than 25% of the Payment Amount of the Debentures have given a notice of default per Section 7.1 above) by requisition in writing by the holders of more than 50% of the Payment Amount of Debentures then outstanding, to instruct the Debenture Trustee to waive any Event of Default and to cancel any declaration made by the Debenture Trustee pursuant to Section 7.1 and the Debenture Trustee shall thereupon waive the Event of Default and cancel such declaration, or either, upon such terms and conditions as shall be prescribed in such requisition; provided that notwithstanding the foregoing if the Event of Default has occurred by reason of the non-observance or non-performance by the Company of any covenant applicable only to one or more series of Debentures, then the holders of more than 50% of the Payment Amount of the outstanding Debentures of that series shall be entitled to exercise the foregoing power and the Debenture Trustee shall so act and it shall not be necessary to obtain a waiver from the holders of any other series of Debentures; and
- (b) the Debenture Trustee, so long as it has not become bound to declare the Payment Amount of, and accrued and unpaid interest on the Debentures then outstanding to be due and payable, or to obtain or enforce payment of the same, shall have power to waive any Event of Default if, in the Debenture Trustee's opinion, the same shall have been cured or adequate satisfaction made therefor, and in such event to cancel any such declaration theretofore made by the Debenture Trustee in the exercise of its discretion, upon such terms and conditions as the Debenture Trustee may deem advisable.

No such act or omission either of the Debenture Trustee or of the Debentureholders shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

7.4 Enforcement by the Debenture Trustee

Subject to the provisions of Article 5 and Section 7.3 and to the provisions of any Extraordinary Resolution that may be passed by the Debentureholders, if the Company shall fail to pay to the Debenture Trustee, forthwith after the same shall have been declared to be due and payable under Section 7.1, the Payment Amount of, and accrued and unpaid interest on, all Debentures then outstanding, together with any other amounts due hereunder, the Debenture Trustee may in its discretion and shall upon receipt of a request in writing signed by the holders of not less than 25% in Payment Amount of the Debentures then outstanding and upon being indemnified to its reasonable

satisfaction against all costs, expenses and liabilities to be incurred, proceed in its name as trustee hereunder to obtain or enforce payment of such Payment Amount of, and accrued and unpaid interest on, all the Debentures then outstanding together with any other amounts due hereunder by such proceedings authorized by this Indenture or by Law or equity as the Debenture Trustee in such request shall have been directed to take, or if such request contains no such direction, or if the Debenture Trustee shall act without such request, then by such proceedings authorized by this Indenture or by suit at Law or in equity as the Debenture Trustee shall deem expedient.

The Debenture Trustee shall be entitled and empowered, either in its own name or as Debenture Trustee of an express trust, or as attorney-in-fact for the holders of the Debentures, or in any one or more of such capacities, to file such proof of debt, amendment of proof of debt, claim, petition or other document as may be necessary or advisable in order to have the claims of the Debenture Trustee and of the holders of the Debentures allowed in any insolvency, bankruptcy, liquidation or other judicial proceedings relative to the Company or its creditors or relative to or affecting the Company's property. The Debenture Trustee is hereby irrevocably appointed (and the successive respective holders of the Debentures by taking and holding the same shall be conclusively deemed to have so appointed the Debenture Trustee) the true and lawful attorney-in-fact of the respective holders of the Debentures with authority to make and file in the respective names of the holders of the Debentures or on behalf of the holders of the Debentures as a class, subject to deduction from any such claims of the amounts of any claims filed by any of the holders of the Debentures themselves, any proof of debt, amendment of proof of debt, claim, petition or other document in any such proceedings and to receive payment of any sums becoming distributable on account thereof, and to execute any such other papers and documents and to do and perform any and all such acts and things for and on behalf of such holders of the Debentures, as may be necessary or advisable in the opinion of the Debenture Trustee, in order to have the respective claims of the Debenture Trustee and of the holders of the Debentures against the Company or its property allowed in any such proceeding, and to receive payment of or on account of such claims; provided, however, that subject to Section 7.3, nothing contained in this Indenture shall be deemed to give to the Debenture Trustee, unless so authorized by Extraordinary Resolution, any right to accept or consent to any plan of reorganization or otherwise by action of any character in such proceeding to waive or change in any way any right of any Debentureholder.

The Debenture Trustee shall also have the power at any time and from time to time to institute and to maintain such suits and proceedings as it may be advised shall be necessary or advisable to preserve and protect its interests and the interests of the Debentureholders.

All rights of action hereunder may be enforced by the Debenture Trustee without the possession of any of the Debentures or the production thereof on the trial or other proceedings relating thereto. Any such suit or proceeding instituted by the Debenture Trustee shall be brought in the name of the Debenture Trustee as trustee of an express trust, and any recovery of judgment shall be for the rateable benefit of the holders of the Debentures subject to the provisions of this Indenture. In any proceeding brought by the Debenture Trustee (and also any proceeding in which a declaratory judgment of a court may be sought as to the interpretation or construction of any provision of this Indenture, to which the Debenture Trustee shall be a party) the Debenture Trustee shall be held to represent all the holders of the Debentures, and it shall not be necessary to make any holders of the Debentures parties to any such proceeding.

7.5 No Suits by Debentureholders

No holder of any Debenture shall have any right to institute any action, suit or proceeding at Law or in equity for the purpose of enforcing payment of the Payment Amount of, or accrued and unpaid interest, on the Debentures or for the execution of any trust or power hereunder or for the appointment of a liquidator or receiver or for a receiving order under the *Bankruptcy and Insolvency Act* (Canada) or to have the Company wound up or to file or prove a claim in any liquidation or bankruptcy proceeding or for any other remedy hereunder, unless: (a) such holder shall previously have given to the Debenture Trustee written notice of the happening of an Event of Default hereunder; and (b) the Debentureholders by Extraordinary Resolution or by written instrument signed by the holders of at least 25% in Payment Amount of the Debentures then outstanding shall have made a request to the Debenture Trustee and the Debenture Trustee shall have been afforded reasonable opportunity either itself to proceed to exercise the powers hereinbefore granted or to institute an action, suit or proceeding in its name for such purpose; and (c) the Debentureholders or any of them shall have furnished to the Debenture Trustee, when so requested by the Debenture Trustee, sufficient funds and security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; and (d) the Debenture Trustee shall be entitled to act and shall have

failed to act within a reasonable time after such notification, request and offer of indemnity and such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Debenture Trustee, to be conditions precedent to any such proceeding or for any other remedy hereunder by or on behalf of the holder of any Debentures.

7.6 Application of Monies by Debenture Trustee

- (a) Except as herein otherwise expressly provided, any monies received by the Debenture Trustee from the Company pursuant to the foregoing provisions of this Article 7, or as a result of legal or other proceedings or from any trustee in bankruptcy or liquidator of the Company, shall be applied, together with any other monies in the hands of the Debenture Trustee available for such purpose, as follows:

- (i) first, in payment or in reimbursement to the Debenture Trustee of its compensation, costs, charges, expenses, borrowings, advances or other monies furnished or provided by or at the instance of the Debenture Trustee in or about the execution of its trusts under, or otherwise in relation to, this Indenture, with interest thereon as herein provided;
- (ii) second, but subject as hereinafter in this Section 7.6 provided, in payment, rateably and proportionately to (and in the case of applicable withholding taxes, if any, on behalf of) the holders of Debentures, of the Payment Amount of, and accrued and unpaid interest and interest on amounts in default on, the Debentures which shall then be outstanding in the priority of Payment Amount, accrued and unpaid interest and interest on amounts in default unless otherwise directed by Extraordinary Resolution and in that case in such order or priority as between Payment Amount and interest as may be directed by such resolution; and
- (iii) third, in payment of the surplus, if any, of such monies to the Company or its assigns;

provided, however, that no payment shall be made pursuant to clause (ii) above in respect of the Payment Amount of, or accrued and unpaid interest on, any Debenture held, directly or indirectly, by or for the benefit of the Company or any affiliate (other than any Debenture pledged for value and in good faith to a Person other than the Company or any affiliate but only to the extent of such Person's interest therein) except subject to the prior payment in full of the Payment Amount of, and accrued and unpaid interest (if any) on, all Debentures which are not so held.

- (b) The Debenture Trustee shall not be bound to apply or make any partial or interim payment of any monies coming into its hands if the amount so received by it, after reserving thereout such amount as the Debenture Trustee may think necessary to provide for the payments mentioned in Section 7.6(a), is insufficient to make a distribution of at least 2% of the aggregate Payment Amount of the outstanding Debentures, but it may retain the money so received by it and invest or deposit the same as provided in Section 12.9 until the money or the investments representing the same, with the income derived therefrom, together with any other monies for the time being under its control shall be sufficient for the said purpose or until it shall consider it advisable to apply the same in the manner hereinbefore set forth. The foregoing shall not, however, apply to a final payment in distribution hereunder.

7.7 Notice of Payment by Debenture Trustee

Not less than 15 days notice shall be given in the manner provided in Section 3.2(d) or Section 11.2, as applicable, by the Debenture Trustee to the Debentureholders of any payment to be made under this Article 7. Such notice shall state the time when and place where such payment is to be made and also the liability under this Indenture to which it is to be applied. After the day so fixed, unless payment shall have been duly demanded and have been refused, the Debentureholders will be entitled to interest only on the balance (if any) of the Payment Amount of, and accrued and unpaid interest due (if any) to them, respectively, on the Debentures, after deduction of the respective amounts payable in respect thereof on the day so fixed.

7.8 Debenture Trustee May Demand Production of Debentures

The Debenture Trustee shall have the right to demand production of the Debentures in respect of which any payment of the Payment Amount required by this Article 7 is made and may cause to be endorsed on the same a memorandum of the amount so paid and the date of payment, but the Debenture Trustee may, in its discretion, dispense with such production and endorsement, upon such indemnity being given to it and to the Company as the Debenture Trustee shall deem sufficient.

7.9 Remedies Cumulative

No remedy herein conferred upon or reserved to the Debenture Trustee, or upon or to the holders of Debentures is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now existing or hereafter to exist by Law or by statute.

7.10 Judgment Against the Company

The Company covenants and agrees with the Debenture Trustee that, in case of any judicial or other proceedings to enforce the rights of the Debentureholders, judgment may be rendered against it in favour of the Debentureholders or in favour of the Debenture Trustee, as trustee for the Debentureholders, for any Payment Amount which may remain due in respect of the Debentures and the accrued and unpaid interest thereon and any other monies owing hereunder.

7.11 Immunity of Debenture Trustee and Others

The Debentureholders and the Debenture Trustee hereby waive and release any right, cause of action or remedy now or hereafter existing in any jurisdiction against any past, present or future officer or director of the Company or holder of Shares or other debt of the Company or of any successor thereto, for the payment of the Payment Amount of, or accrued and unpaid interest on, any of the Debentures or for any breach of any covenant, agreement, representation or warranty by the Company contained herein or in the Debentures.

**ARTICLE 8
SATISFACTION AND DISCHARGE**

8.1 Cancellation and Destruction

All Debentures shall forthwith after payment thereof, whether on the Maturity Date, Redemption Date, the date of a Change of Control or on any other payment date, be delivered to the Debenture Trustee and cancelled by it. All Debentures cancelled or required to be cancelled under this or any other provision of this Indenture shall be destroyed by the Debenture Trustee and, if required by the Company, the Debenture Trustee shall furnish to it a destruction certificate setting out the designating numbers of the Debentures so destroyed.

8.2 Non-Presentation of Debentures

In case the holder of any Debenture shall fail to present the same for payment on the date on which the Payment Amount or the accrued and unpaid interest thereon or represented thereby becomes payable either at maturity or otherwise or shall not accept payment on account thereof and give such receipt therefor, if any, as the Debenture Trustee may require:

- (a) the Company shall be entitled to pay or deliver to the Debenture Trustee and direct it to set aside; or
- (b) in respect of monies in the hands of the Debenture Trustee which may or should be applied to the payment of the Debentures, the Company shall be entitled to direct the Debenture Trustee to set aside; or

- (c) if the redemption was pursuant to notice given by the Debenture Trustee, the Debenture Trustee may itself set aside;

the Payment Amount of, or the accrued and unpaid interest on, as the case may be, such holder's Debentures in trust to be paid to the holder of such Debenture upon due presentation or surrender thereof in accordance with the provisions of this Indenture; and thereupon the Payment Amount of, or the accrued and unpaid interest payable on or represented by each Debenture in respect whereof such monies, have been set aside shall be deemed to have been paid and the holder thereof shall thereafter have no right in respect thereof except that of receiving delivery and payment of the monies so set aside by the Debenture Trustee upon due presentation and surrender thereof, subject always to the provisions of Section 8.3.

8.3 Repayment of Unclaimed Monies

Subject to applicable Law, any monies set aside under Section 8.2 and not claimed by and paid to holders of Debentures as provided in Section 8.2 within six years after the date of such setting aside shall be repaid and delivered to the Company by the Debenture Trustee and thereupon the Debenture Trustee shall be released from all further liability with respect to such monies and thereafter the holders of the Debentures in respect of which such monies were so repaid to the Company shall have no rights in respect thereof except to obtain payment and delivery of the monies from the Company subject to any limitation provided by the Laws of the Province of Ontario.

8.4 Discharge

The Debenture Trustee shall at the written request of the Company release and discharge this Indenture and execute and deliver such Instruments as it shall be advised by Counsel are requisite for that purpose and to release the Company from its covenants herein contained (other than the provisions relating to the indemnification of the Debenture Trustee), upon proof being given to the reasonable satisfaction of the Debenture Trustee that the Payment Amount of, and accrued and unpaid interest (including interest on amounts in default, if any), on all the Debentures and all other monies payable hereunder have been paid or satisfied or that all the Debentures having matured or having been duly called for redemption, payment of the Payment Amount of, and accrued and unpaid interest (including interest on amounts in default, if any) on, such Debentures and of all other monies payable hereunder has been duly and effectually provided for in accordance with the provisions hereof.

8.5 Satisfaction

- (a) The Company shall be deemed to have fully paid, satisfied and discharged all of the outstanding Debentures or all of the outstanding Debentures of any series and the Debenture Trustee, at the expense of the Company, shall execute and deliver proper instruments acknowledging the full payment, satisfaction and discharge of such Debentures, when, with respect to all of the outstanding Debentures or all of the outstanding Debentures of any series, as applicable, either:
- (i) the Company has deposited or caused to be deposited with the Debenture Trustee as trust funds or property in trust for the purpose of making payment on such Debentures, an amount in money sufficient to pay, satisfy and discharge the entire amount of Payment Amount of, and accrued and unpaid interest, if any, on the Debentures to the Maturity Date, or any repayment date or Redemption Dates, as the case may be, of such Debentures; or
 - (ii) the Company has deposited or caused to be deposited with the Debenture Trustee as trust property in trust for the purpose of making payment on such Debentures:
 - (A) if the Debentures are issued in Canadian dollars, such amount in Canadian dollars of direct obligations of, or obligations the principal and interest of which are guaranteed by, the Government of Canada; or
 - (B) if the Debentures are issued in a currency or currency unit other than Canadian dollars, cash in the currency or currency unit in which the Debentures are payable and/or such amount in such currency or currency unit of direct

obligations of, or obligations the principal and interest of which are guaranteed by, the government that issued the currency or currency unit in which the Debentures are payable;

as will, together with the income to accrue thereon, be sufficient to pay and discharge the entire amount of Payment Amount and accrued and unpaid interest to the Maturity Date, Redemption Date or any repayment date, as the case may be, of all such Debentures;

and in either event:

- (iii) the Company has paid, caused to be paid or made provisions to the satisfaction of the Debenture Trustee for the payment of all other sums payable with respect to all of such Debentures (together with all applicable expenses of the Debenture Trustee in connection with the payment of such Debentures); and
- (iv) the Company has delivered to the Debenture Trustee an Officer's Certificate stating that all conditions precedent herein provided relating to the payment, satisfaction and discharge of all such Debentures have been complied with.

Any deposits with the Debenture Trustee referred to in this Section 8.5 shall be irrevocable, subject to Section 8.6, and shall be made under the terms of an escrow and/or trust agreement in form and substance satisfactory to the Debenture Trustee and which provides for the due and punctual payment of the Payment Amount of, and accrued and unpaid interest and all other amounts owing on, the Debentures being satisfied.

- (b) Upon the satisfaction of the conditions set forth in this Section 8.5 with respect to all the outstanding Debentures, or all the outstanding Debentures of any series, as applicable, the terms and conditions of such Debentures, including the terms and conditions with respect thereto set forth in this Indenture (other than those contained in Article 2, Article 4, Article 5, Section 7.4 and Article 9 and the provisions of Article 1 pertaining to the foregoing provisions) shall no longer be binding upon or applicable to the Company.
- (c) Any funds or obligations deposited with the Debenture Trustee pursuant to this Section 8.5 shall be denominated in the currency or denomination of the Debentures in respect of which such deposit is made.
- (d) If the Debenture Trustee is unable to apply any money or securities in accordance with this Section 8.5 by reason of Article 5 or any legal proceeding or any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Company's obligations under this Indenture and the affected Debentures shall be revived and reinstated as though no money or securities had been deposited pursuant to this Section 8.5 until such time as the Debenture Trustee is permitted to apply all such money or securities in accordance with this Section 8.5, provided that if the Company has made any payment in respect of the Payment Amount of, or accrued and unpaid interest on, the Debentures or, as applicable, other amounts because of the reinstatement of its obligations, the rights of the Company shall be subrogated to the rights of the holders of such Debentures to receive such payment from the money or securities held by the Debenture Trustee.

8.6 Continuance of Rights, Duties and Obligations

- (a) Where trust funds or trust property have been deposited pursuant to Section 8.5 in respect of a series of Debentures (the "Defeased Debentures"), the holders of Debentures and the Company shall continue to have and be subject to their respective rights, duties and obligations under Article 2, Article 4, Article 5 and Article 9 and the provisions of Article 1 pertaining to the foregoing.

- (b) In the event that, after the deposit of trust funds or trust property pursuant to Section 8.5, the Company is required to make an Offer to purchase any outstanding Debentures pursuant to Section 2.4(g) in relation to Initial Debentures or to make an offer to purchase Debentures pursuant to any other similar provisions relating to any other series of Debentures, the Company shall be entitled to use any trust money or trust property deposited with the Debenture Trustee pursuant to Section 8.5 for the purpose of paying to any holders of Defeased Debentures who have accepted any such Offer of the Company the aggregate Offer Price payable to such holders in respect of such Offer in respect of Initial Debentures (or the total offer price payable in respect of an offer relating to any other series of Debentures). Upon receipt of a Written Direction from the Company, the Debenture Trustee shall be entitled to pay to such holder from such trust money or trust property deposited with the Debenture Trustee pursuant to Section 8.5 in respect of the Defeased Debentures the amount which is applicable to the Defeased Debentures held by such holders who have accepted any such Offer (which amount shall be based on the applicable principal amount of the Defeased Debentures held by accepting offerees in relation to the aggregate outstanding principal amount of all the Defeased Debentures).

ARTICLE 9 SUCCESSORS

9.1 Restrictions on Amalgamation, Merger and Sale of Certain Assets, etc.

Other than upon the occurrence of a Change of Control, unless consented to in writing by the holders of not less than 50% of the Payment Amount of the Debentures then outstanding, the Company shall not enter into any transaction or series of transactions whereby all or substantially all of its undertaking, property or assets would become the property of any other Person (herein called a "Successor") whether by way of reorganization, consolidation, amalgamation, arrangement, merger, conveyance, lease, sale or otherwise, unless:

- (a) prior to or contemporaneously with the consummation of such transaction the Company and the Successor shall have executed such instruments and done such things as, in the opinion of Counsel, are necessary or advisable to establish that upon the consummation of such transaction:
 - (i) the Successor will have assumed by way of supplemental indenture all the covenants and obligations of the Company under this Indenture in respect of the Debentures;
 - (ii) the Debentures will be valid and binding obligations of the Successor entitling the holders thereof, as against the Successor, to all the rights of Debentureholders under this Indenture;
 - (iii) the Successor is a corporation, partnership, limited liability company or trust organized or existing under the Laws of Canada or any province or territory thereof; and
 - (iv) in the case of an entity organized otherwise than under the Laws of the Province of Ontario, the Successor shall attorn to the jurisdiction of the courts of the Province of Ontario;
- (b) such transaction, in the opinion of Counsel, shall be on such terms as to substantially preserve and not impair any of the rights and powers of the Debenture Trustee or of the Debentureholders hereunder;
- (c) no condition or event shall exist as to the Company (at the time of such transaction) or the Successor (immediately after such transaction) and after giving full effect thereto or immediately after the Successor shall become liable to pay the principal monies, premium, if any, interest and other monies due or which may become due hereunder, which constitutes or would with the giving of notice or lapse of time constitute an Event of Default hereunder; and

- (d) the Company shall have delivered to the Debenture Trustee an Officer's Certificate confirming that all requirements of this Article 9 have been complied with in respect of such transaction or series of transactions.

9.2 Vesting of Powers in Successor

Whenever the conditions of Section 9.1 shall have been duly observed and performed, any Successor formed by or resulting from such transaction or series of transactions shall succeed to, and be substituted for, and may exercise every right and power of the Company under this Indenture with the same effect as though the Successor had been named as the Company herein and thereafter, except in the case of a lease or other similar disposition of property to the Successor, the Company shall be relieved of all obligations and covenants under this Indenture and the Debentures forthwith upon the Company delivering to the Debenture Trustee an opinion of Counsel to the effect that the transaction or series of transactions shall not result in any material adverse tax consequences to the Company or the Successor. The Debenture Trustee will, at the expense of the Successor, execute any documents which it may be advised by Counsel are necessary or advisable for effecting or evidencing such release and discharge.

ARTICLE 10 MEETINGS OF DEBENTUREHOLDERS

10.1 Right to Convene Meeting

The Debenture Trustee or the Company may at any time and from time to time, and the Debenture Trustee shall, on receipt of a written request of the Company or a written request signed by the holders of not less than 25% of the Payment Amount of the Debentures then outstanding and upon receiving funding and being indemnified to its reasonable satisfaction by the Company or by the Debentureholders signing such request against the costs which may be incurred in connection with the calling and holding of such meeting, convene a meeting of the Debentureholders. In the event of the Debenture Trustee failing, within 30 days after receipt of any such request and such funding and indemnity, to give notice convening a meeting, the Company or such Debentureholders, as the case may be, may convene such meeting. Every such meeting shall be held in the City of Toronto, Ontario or at such other place as may be approved or determined by the Debenture Trustee.

10.2 Notice of Meetings

- (a) At least 21 days' and not more than 60 days' notice of any meeting shall be given to the Debentureholders in the manner provided in Section 3.2(d) or Section 11.2, as applicable, and a copy of such notice shall be sent by post to the Debenture Trustee in the manner provided by Section 11.3, unless the meeting has been called by it. Such notice shall state the time when and the place where the meeting is to be held and shall state briefly the general nature of the business to be transacted thereat and it shall not be necessary for any such notice to set out the terms of any resolution to be proposed or any of the provisions of this Article 10. The accidental omission to give notice of a meeting to any holder of Debentures shall not invalidate any resolution passed at any such meeting. A holder may waive notice of a meeting either before or after the meeting.
- (b) If the business to be transacted at any meeting by Extraordinary Resolution or otherwise, or any action to be taken or power exercised by instrument in writing under Section 10.15, especially affects the rights of holders of Debentures of one or more series in a manner or to an extent differing in any material way from that in or to which the rights of holders of Debentures of any other series are affected (determined as provided in Sections 10.2(c) and (d)), then:
- (i) a reference to such fact, indicating each series of Debentures in the opinion of the Debenture Trustee so especially affected (hereinafter referred to as the "especially affected series") shall be made in the notice of such meeting, and in any such case the meeting shall be and be deemed to be and is herein referred to as a "Serial Meeting"; and

- (ii) the holders of Debentures of an especially affected series shall not be bound by any action taken at a Serial Meeting or by instrument in writing under Section 10.15 unless in addition to compliance with the other provisions of this Article 10:
 - (A) at such Serial Meeting: (I) there are Debentureholders present in person or by proxy and representing at least 25% in Payment Amount of the Debentures then outstanding of such series, subject to the provisions of this Article 10 as to quorum at adjourned meetings; and (II) the resolution is passed by the affirmative vote of the holders of more than 50% (or in the case of an Extraordinary Resolution not less than $66 \frac{2}{3}\%$) of the Payment Amount of the Debentures of such series then outstanding voted on the resolution; or
 - (B) in the case of action taken or power exercised by instrument in writing under Section 10.15, such instrument is signed in one or more counterparts by the holders of not less than $66 \frac{2}{3}\%$ in Payment Amount of the Debentures of such series then outstanding (in the case of an Extraordinary Resolution) or not less than 50% in Payment Amount of the Debentures of such series then outstanding (in the case of an ordinary resolution).
- (c) Subject to Section 10.2(d), the determination as to whether any business to be transacted at a meeting of Debentureholders, or any action to be taken or power to be exercised by instrument in writing under Section 10.15, especially affects the rights of the Debentureholders of one or more series in a manner or to an extent differing in any material way from that in or to which it affects the rights of Debentureholders of any other series (and is therefore an especially affected series) shall be determined by an opinion of Counsel, which shall be binding on all Debentureholders, the Debenture Trustee and the Company for all purposes hereof.
- (d) A proposal:
 - (i) to extend the Maturity Date of Debentures of any particular series or to reduce the Principal Amount or Payment Amount thereof, the rate of interest or redemption premium thereon;
 - (ii) to modify or terminate any covenant or agreement which by its terms is effective only so long as Debentures of a particular series are outstanding; or
 - (iii) to reduce with respect to Debentureholders of any particular series any percentage stated in this Section 10.2 or Sections 10.4, 10.12 and 10.15;

shall be deemed to especially affect the rights of the Debentureholders of such series in a manner differing in a material way from that in which it affects the rights of holders of Debentures of any other series, whether or not a similar extension, reduction, modification or termination is proposed with respect to Debentures of any or all other series.

10.3 Chairman

An individual, who need not be a Debentureholder, nominated in writing by the Company (if the Company convenes the meeting) or the Debenture Trustee (in any other case) shall be chairman of the meeting and if no individual is so nominated, or if the individual so nominated is not present within 15 minutes from the time fixed for the holding of the meeting, a majority of the Debentureholders present in person or by proxy shall choose some individual present to be chairman.

10.4 Quorum

Subject to the provisions of Section 10.12, at any meeting of the Debentureholders a quorum shall consist of one or more Debentureholders present in person or by proxy and representing at least 25% in Payment Amount of the outstanding Debentures and, if the meeting is a Serial Meeting, at least 25% in Payment Amount of

the Debentures then outstanding of each especially affected series. If a quorum of the Debentureholders shall not be present within 30 minutes from the time fixed for holding any meeting, the meeting, if summoned by the Debentureholders or pursuant to a request of the Debentureholders, shall be dissolved, but in any other case the meeting shall be adjourned and reconvened on the same day in the next week (unless such day is not a Business Day in which case it shall be adjourned and reconvened on the next following Business Day thereafter) at the same time and place and no notice shall be required to be given in respect of such adjourned meeting. At the reconvened meeting, the Debentureholders present in person or by proxy shall, subject to the provisions of Section 10.12, constitute a quorum and may transact the business for which the meeting was originally convened notwithstanding that they may not represent 25% of the Payment Amount of the outstanding Debentures or of the Debentures then outstanding of each especially affected series. Any business may be brought before or dealt with at a reconvened meeting which might have been brought before or dealt with at the original meeting in accordance with the notice calling the same. No business shall be transacted at any meeting unless the required quorum be present at the commencement of business.

10.5 Power to Adjourn

The chairman of any meeting at which a quorum of the Debentureholders is present may, with the consent of the holders of a majority in principal amount of the Debentures represented thereat, adjourn any such meeting and no notice of such adjournment need be given except such notice, if any, as the meeting may prescribe.

10.6 Show of Hands

Every question submitted to a meeting shall, subject to Section 10.7, be decided in the first place by a majority of the votes given on a show of hands except that votes on Extraordinary Resolutions shall be given in the manner hereinafter provided. At any such meeting, unless a poll is duly demanded as herein provided, a declaration by the chairman that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority shall be conclusive evidence of the fact. The chairman of any meeting shall be entitled, both on a show of hands and on a poll, to vote in respect of the Debentures, if any, held by him or which are represented by a proxy given in his favour.

10.7 Poll

On every Extraordinary Resolution, and on any other question submitted to a meeting when demanded by the chairman or by one or more Debentureholders or proxies for Debentureholders, a poll shall be taken in such manner and either at once or after an adjournment as the chairman shall direct. Questions other than Extraordinary Resolutions shall, if a poll be taken, be decided by the votes of the holders of a majority in Payment Amount of the Debentures and of each especially affected series, if applicable, represented at the meeting and voted on the poll.

10.8 Voting

On a show of hands every Person who is present and entitled to vote, whether as a Debentureholder or as proxy for one or more Debentureholders or both, shall have one vote. On a poll, each Debentureholder present in person or represented by a proxy duly appointed by an instrument in writing shall be entitled to one vote in respect of each \$1,000 Payment Amount of Debentures of which he shall then be the holder. In the case of any Debenture denominated in a currency or currency unit other than Canadian dollars, the Payment Amount thereof for these purposes shall be computed in Canadian dollars on the basis of the conversion of the principal amount thereof at the applicable spot buying rate of exchange for such other currency or currency unit as reported by the Bank of Canada at the close of business on the Business Day next preceding the meeting. Any fractional amounts resulting from such conversion shall be rounded to the nearest \$1,000. A proxy need not be a Debentureholder. In the case of joint holders of a Debenture, any one of them present in person or by proxy at the meeting may vote in the absence of the other or others but in case more than one of them be present in person or by proxy, they shall vote together in respect of the Debentures of which they are joint holders.

10.9 Proxies

A Debentureholder may be present and vote at any meeting of Debentureholders by an authorized representative. The Company (in case it convenes the meeting) or the Debenture Trustee (in any other case) for the purpose of enabling the Debentureholders to be present and vote at any meeting without producing their Debentures, and of enabling them to be present and vote at any such meeting by proxy and of lodging instruments appointing such proxies at some place other than the place where the meeting is to be held, may from time to time make and vary such regulations as it shall think fit providing for and governing any or all of the following matters:

- (a) the form of the instrument appointing a proxy, which shall be in writing, and the manner in which the same shall be executed and the production of the authority of any Person signing on behalf of a Debentureholder;
- (b) the deposit of instruments appointing proxies at such place as the Debenture Trustee, the Company or the Debentureholder convening the meeting, as the case may be, may, in the notice convening the meeting, direct and the time, if any, before the holding of the meeting or any adjournment thereof by which the same must be deposited; and
- (c) the deposit of instruments appointing proxies at some approved place or places other than the place at which the meeting is to be held and enabling particulars of such instruments appointing proxies to be mailed, faxed, or sent by other electronic means before the meeting to the Company or to the Debenture Trustee at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting.

Any regulations so made shall be binding and effective and the votes given in accordance therewith shall be valid and shall be counted. Save as such regulations may provide, the only Persons who shall be recognized at any meeting as the holders of any Debentures, or as entitled to vote or be present at the meeting in respect thereof, shall be Debentureholders and their authorized representatives and Persons whom Debentureholders have by instrument in writing duly appointed as their proxies.

10.10 Persons Entitled to Attend Meetings

The Company and the Debenture Trustee, by their respective trustees, employees, officers and directors, the Auditors of the Company and the legal advisers of the Company, the Debenture Trustee or any Debentureholder may attend any meeting of the Debentureholders, but shall have no vote as such.

10.11 Powers Exercisable by Extraordinary Resolution

In addition to the powers conferred upon them by any other provisions of this Indenture or by Law, a meeting of the Debentureholders shall have the following powers exercisable from time to time by Extraordinary Resolution, subject in the case of the matters in paragraphs (a), (b), (c), (d) and (l) to receipt of the necessary prior approval, if any, of the Toronto Stock Exchange or such other exchange on which the Debentures are then listed (if any):

- (a) power to authorize the Debenture Trustee to grant extensions of time for payment of any principal amount or Payment Amount, or accrued and unpaid interest on the Debentures, whether or not the Principal Amount or Payment Amount, or accrued and unpaid interest, the payment of which is extended, is at the time due or overdue;
- (b) power to sanction any modification, abrogation, alteration, compromise or arrangement of the rights of the Debentureholders or the Debenture Trustee against the Company, or against its property, whether such rights arise under this Indenture or the Debentures or otherwise;
- (c) power to assent to any modification of or change in or addition to or omission from the provisions contained in this Indenture or any Debenture which would be adverse to the Debentureholders, and which shall be agreed to by the Company and to authorize the Debenture Trustee to concur in

and execute any indenture supplemental hereto embodying any modification, change, addition or omission;

- (d) power to sanction any scheme for the reconstruction, reorganization or recapitalization of the Company or for the consolidation, amalgamation or merger of the Company with any other Person or for the sale, leasing, transfer or other disposition of all or substantially all of the undertaking, property and assets of the Company or any part thereof, provided that no such sanction shall be necessary in respect of any such transaction if the provisions of Section 9.1 shall have been complied with;
- (e) power to direct or authorize the Debenture Trustee to exercise any power, right, remedy or authority given to it by this Indenture in any manner specified in any such Extraordinary Resolution or to refrain from exercising any such power, right, remedy or authority;
- (f) power to waive, and direct the Debenture Trustee to waive, any default hereunder and/or cancel any declaration made by the Debenture Trustee pursuant to Section 7.1 either unconditionally or upon any condition specified in such Extraordinary Resolution;
- (g) power to restrain any Debentureholder from taking or instituting any suit, action or proceeding for the purpose of enforcing payment of the principal amount, Payment Amount, or accrued and unpaid on the Debentures, or for the execution of any trust or power hereunder;
- (h) power to direct any Debentureholder who, as such, has brought any action, suit or proceeding to stay or discontinue or otherwise deal with the same upon payment, if the taking of such suit, action or proceeding shall have been permitted by Section 7.5, of the costs, charges and expenses reasonably and properly incurred by such Debentureholder in connection therewith;
- (i) power to assent to any compromise or arrangement with any creditor or creditors or any class or classes of creditors, whether secured or otherwise, and with holders of any Shares or other securities of the Company;
- (j) power to appoint a committee with power and authority (subject to such limitations, if any, as may be prescribed in the resolution) to exercise, and to direct the Debenture Trustee to exercise, on behalf of the Debentureholders, such of the powers of the Debentureholders as are exercisable by Extraordinary Resolution or other resolution as shall be included in the resolution appointing the committee. The resolution making such appointment may provide for payment of the expenses and disbursements of and compensation to such committee. Such committee shall consist of such number of individuals as shall be prescribed in the resolution appointing it and the members need not be themselves Debentureholders. Every such committee may elect its chairman and may make regulations respecting its quorum, the calling of its meetings, the filling of vacancies occurring in its number and its procedure generally. Such regulations may provide that the committee may act at a meeting at which a quorum is present or may act by minutes signed by the number of members thereof necessary to constitute a quorum. All acts of any such committee within the authority delegated to it shall be binding upon all Debentureholders and the Debenture Trustee. Neither the committee nor any member thereof shall be liable for any loss arising from or in connection with any action taken or omitted to be taken by them in good faith;
- (k) power to remove the Debenture Trustee from office and to appoint a new Debenture Trustee or Debenture Trustees provided that no such removal shall be effective unless and until a new Debenture Trustee or Debenture Trustees shall have become bound by this Indenture;
- (l) power to sanction the exchange of the Debentures for or the conversion thereof into Shares, bonds, debentures or other securities or obligations of the Company or of any other Person formed or to be formed;

- (m) power to authorize the distribution in specie of any shares or securities received pursuant to a transaction authorized under the provisions of Section 9.1;
- (n) power to require the Debenture Trustee to exercise any power, right or remedy or authority given to it by this Indenture in any manner specified in such Extraordinary Resolution, or to refrain from exercising any such power, right, remedy or authority;
- (o) power to sanction any modification, abrogation, alteration, compromise or arrangement of the rights of the Debentureholders against the Company, or against its property, whether such rights arise under this Indenture or the Debentures or otherwise; and
- (p) power to amend, alter or repeal any Extraordinary Resolution previously passed or sanctioned by the Debentureholders or by any committee appointed pursuant to Section 10.11(j).

Notwithstanding the foregoing provisions of this Section 10.11 none of such provisions shall in any manner allow or permit any amendment, modification, abrogation or addition to the provisions of Article 5 which could reasonably be expected to detrimentally affect the rights, remedies or recourse of the priority of the Senior Creditors.

10.12 Meaning of "Extraordinary Resolution"

- (a) The expression "Extraordinary Resolution" when used in this Indenture means, subject as hereinafter in this Article provided, a resolution proposed to be passed as an Extraordinary Resolution at a meeting of Debentureholders (including a reconvened meeting) duly convened for the purpose and held in accordance with the provisions of this Article at which the holders of not less than 25% of the Payment Amount of the Debentures then outstanding, and if the meeting is a Serial Meeting, at which holders of not less than 25% of the Payment Amount of the Debentures then outstanding of each especially affected series, are present in person or by proxy and passed by the affirmative votes of the holders of not less than 66 2/3% of the Payment Amount of the Debentures, and if the meeting is a Serial Meeting by the affirmative vote of the holders of not less than 66 2/3% of each especially affected series, in each case present or represented by proxy at the meeting and voted upon on a poll on such resolution.
- (b) If, at any such meeting, the holders of not less than 25% of the Payment Amount of the Debentures then outstanding and, if the meeting is a Serial Meeting, 25% of the Payment Amount of the Debentures then outstanding of each especially affected series, in each case are not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by or on the requisition of Debentureholders, shall be dissolved but in any other case it shall stand adjourned and shall be reconvened to such date, being not less than 14 nor more than 60 days later, and at such place and time as may be appointed by the chairman. Not less than 10 days notice shall be given of the time and place of such reconvened meeting in the manner provided in Section 3.2(d) or Section 11.2, as applicable. Such notice shall state that at the reconvened meeting the Debentureholders present in person or by proxy shall form a quorum. At the reconvened meeting the Debentureholders present in person or by proxy shall form a quorum and may transact the business for which the meeting was originally convened and a resolution proposed at such reconvened meeting and passed thereat by the affirmative vote of holders of not less than 66 2/3% of the Payment Amount of the Debentures and, if the meeting is a Serial Meeting, by the affirmative vote of the holders of not less than 66 2/3% of the Payment Amount of the Debentures of each especially affected series, in each case present or represented by proxy at the meeting and voted upon on a poll shall be an Extraordinary Resolution within the meaning of this Indenture, notwithstanding that the holders of not less than 25% in Payment Amount of the Debentures then outstanding, and if the meeting is a Serial Meeting, holders of not less than 25% of the Payment Amount of the Debentures then outstanding of each especially affected series, are not present in person or by proxy at such adjourned meeting.

- (c) Votes on an Extraordinary Resolution shall always be given on a poll and no demand for a poll on an Extraordinary Resolution shall be necessary.

10.13 Powers Cumulative

Any one or more of the powers in this Indenture stated to be exercisable by the Debentureholders by Extraordinary Resolution or otherwise may be exercised from time to time and the exercise of any one or more of such powers from time to time shall not be deemed to exhaust the rights of the Debentureholders to exercise the same or any other such power or powers thereafter from time to time.

10.14 Minutes

Minutes of all resolutions and proceedings at every meeting as aforesaid shall be made and duly entered in books to be from time to time provided for that purpose by the Debenture Trustee at the expense of the Company, and any such minutes as aforesaid, if signed by the chairman of the meeting at which such resolutions were passed or proceedings had, or by the chairman of the next succeeding meeting of the Debentureholders, shall be *prima facie* evidence of the matters therein stated and, until the contrary is proved, every such meeting, in respect of the proceedings of which minutes shall have been made, shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings taken thereat to have been duly passed and taken.

10.15 Instruments in Writing

All actions which may be taken and all powers that may be exercised by the Debentureholders at a meeting held as hereinbefore in this Article 10 provided may also be taken and exercised by the holders of 66 2/3% of the Payment Amount of all the outstanding Debentures (in the case of an Extraordinary Resolution) or 50% of the Payment Amount of all the outstanding Debentures (in the case of an ordinary resolution) and, if the meeting at which such actions might be taken would be a Serial Meeting, by the holders of 66 2/3% of the Payment Amount of the Debentures then outstanding of each especially affected series (in the case of an Extraordinary Resolution) or 50% of the Payment Amount the Debentures then outstanding of each especially affected series (in the case of an ordinary resolution), by an instrument in writing signed in one or more counterparts and the expression "Extraordinary Resolution" and "ordinary resolution", as the case may be, when used in this Indenture shall include an instrument so signed.

10.16 Binding Effect of Resolutions

Every resolution and every Extraordinary Resolution passed in accordance with the provisions of this Article 10 at a meeting of Debentureholders shall be binding upon all the Debentureholders, whether present at or absent from such meeting, and every instrument in writing signed by Debentureholders in accordance with Section 10.15 shall be binding upon all the Debentureholders, whether signatories thereto or not, and each and every Debentureholder and the Debenture Trustee (subject to the provisions for its indemnity herein contained) shall be bound to give effect accordingly to every such resolution, Extraordinary Resolution and instrument in writing.

10.17 Evidence of Rights Of Debentureholders

- (a) Any request, direction, notice, consent or other instrument which this Indenture may require or permit to be signed or executed by the Debentureholders may be in any number of concurrent instruments of similar tenor signed or executed by such Debentureholders.
- (b) The Debenture Trustee may, in its discretion, require proof of execution in cases where it deems proof desirable and may accept such proof as it shall consider proper.

10.18 Concerning Serial Meetings

Subject to Section 10.2(d), if in the opinion of Counsel any business to be transacted at any meeting, or any action to be taken or power to be exercised by instrument in writing under Section 10.15, does not adversely affect the rights of the holders of Debentures of one or more series, the provisions of this Article 10 shall apply as if the Debentures of such series were not outstanding and no notice of any such meeting need be given to

the holders of Debentures of such series. Without limiting the generality of the foregoing, a proposal to modify or terminate any covenant or agreement which is effective only so long as Debentures of a particular series are outstanding shall be deemed not to adversely affect the rights of the holders of Debentures of any other series.

ARTICLE 11 NOTICES

11.1 Notice to Company

Any notice to the Company under the provisions of this Indenture shall be valid and effective if delivered to the Company at Suite 2300, Canada Trust Tower, Brookfield Place, 161 Bay Street, Toronto, Ontario, M5J 2S1, Attention: Mr. Stewart Lyons and a copy delivered to Stikeman Elliott LLP, 199 Bay Street, Suite 5300, Toronto, Ontario M5L 1B9, Attention: Mr. Dee Rajpal, or if given by registered letter, postage prepaid, to such offices and so addressed and if mailed, shall be deemed to have been effectively given three days following the mailing thereof. The Company may from time to time notify the Debenture Trustee in writing of a change of address which thereafter, until changed by like notice, shall be the address of the Company for all purposes of this Indenture.

11.2 Notice to Debentureholders

All notices to be given hereunder with respect to the Debentures shall be deemed to be validly given to the holders thereof if sent by courier, first class mail, postage prepaid, by letter or circular addressed to such holders at their post office addresses appearing in any of the registers hereinbefore mentioned and shall be deemed to have been effectively given three days following the day of mailing. Accidental error or omission in giving notice or accidental failure to mail notice to any Debentureholder shall not invalidate any action or proceeding founded thereon.

If any notice given in accordance with the foregoing paragraph would be unlikely to reach the Debentureholders to whom it is addressed in the ordinary course of post by reason of an interruption in mail service, whether at the place of dispatch or receipt or both, the Company shall give such notice by publication at least once in the City of Toronto (or in such of those cities as, in the opinion of the Debenture Trustee, is sufficient in the particular circumstances), each such publication to be made in a daily newspaper of general circulation in the designated city.

Any notice given to Debentureholders by publication shall be deemed to have been given on the day on which publication shall have been effected at least once in each of the newspapers in which publication was required.

All notices with respect to any Debenture may be given to whichever one of the holders thereof (if more than one) is named first in the registers hereinbefore mentioned, and any notice so given shall be sufficient notice to all holders of such Debenture.

In respect of any Global Debenture, all references herein to notice to Debentureholders shall be satisfied by the Company or the Debenture Trustee, as the case may be, by providing such notice to the Depository.

11.3 Notice to Debenture Trustee

Any notice to the Debenture Trustee under the provisions of this Indenture shall be valid and effective if delivered to the Debenture Trustee at 200 University Avenue, Suite 400, Toronto, ON M5H 4H1, Attention: Corporate Trust, or if given by registered letter, postage prepaid, to such office and so addressed and, if mailed, shall be deemed to have been effectively given three days following the mailing thereof. The Debenture Trustee may from time to time notify the Company and the Debentureholders in writing of a change of address which thereafter, until changed by like notice, shall be the address of the Debenture Trustee for all purposes of this Indenture.

11.4 Mail Service Interruption

If by reason of any interruption of mail service, actual or threatened, any notice to be given to the Debenture Trustee would reasonably be unlikely to reach its destination by the time notice by mail is deemed to have been given pursuant to Section 11.3, such notice shall be valid and effective only if delivered at the appropriate address in accordance with Section 11.3.

ARTICLE 12 CONCERNING THE DEBENTURE TRUSTEE

12.1 No Conflict of Interest

The Debenture Trustee represents to the Company that at the date of execution and delivery by it of this Indenture there exists no material conflict of interest in the role of the Debenture Trustee as a fiduciary hereunder but if, notwithstanding the provisions of this Section 12.1, such a material conflict of interest exists, or hereafter arises, the validity and enforceability of this Indenture, and the Debentures issued hereunder, shall not be affected in any manner whatsoever by reason only that such material conflict of interest exists or arises but the Debenture Trustee shall, within 30 days after ascertaining that it has a material conflict of interest, either eliminate such material conflict of interest or resign in the manner and with the effect specified in Section 12.2.

12.2 Replacement of Debenture Trustee

The Debenture Trustee may resign its trust and be discharged from all further duties and liabilities hereunder by giving to the Company 90 days notice in writing or such shorter notice as the Company may accept as sufficient. If at any time a material conflict of interest exists in the Debenture Trustee's role as a fiduciary hereunder the Debenture Trustee shall, within 30 days after ascertaining that such a material conflict of interest exists, either eliminate such material conflict of interest or resign in the manner and with the effect specified in this Section 12.2. The validity and enforceability of this Indenture and of the Debentures issued hereunder shall not be affected in any manner whatsoever by reason only that such a material conflict of interest exists. In the event of the Debenture Trustee resigning or being removed or being dissolved, becoming bankrupt, going into liquidation or otherwise becoming incapable of acting hereunder, the Company shall forthwith appoint a new Debenture Trustee unless a new Debenture Trustee has already been appointed by the Debentureholders. Failing such appointment by the Company, the retiring Debenture Trustee or any Debentureholder may apply to a Judge of the Superior Court of Ontario, on such notice as such Judge may direct at the Company's expense, for the appointment of a new Debenture Trustee but any new Debenture Trustee so appointed by the Company or by the Court shall be subject to removal as aforesaid by the Debentureholders and the appointment of such new Debenture Trustee shall be effective only upon such new Debenture Trustee becoming bound by this Indenture. Any new Debenture Trustee appointed under any provision of this Section 12.2 shall be a corporation authorized to carry on the business of a trust company in all of the Provinces and Territories of Canada. On any new appointment the new Debenture Trustee shall be vested with the same powers, rights, duties and responsibilities as if it had been originally named herein as Debenture Trustee.

Any company into which the Debenture Trustee may be merged or, with or to which it may be consolidated or amalgamated, or any company resulting from any merger, consolidation or amalgamation to which the Debenture Trustee shall be a party, shall be the successor trustee under this Indenture without the execution of any instrument or any further act. Nevertheless, upon the written request of the successor Debenture Trustee or of the Company, the Debenture Trustee ceasing to act, upon receipt of all outstanding amounts owing to it under this Indenture, shall execute and deliver an instrument assigning and transferring to such successor Debenture Trustee, upon the trusts herein expressed, all the rights, powers and trusts of the Debenture Trustee so ceasing to act, and shall duly assign, transfer and deliver all property and money held by such Debenture Trustee to the successor Debenture Trustee so appointed in its place. Should any deed, conveyance or instrument in writing from the Company be required by any new Debenture Trustee for more fully and certainly vesting in and confirming to it such estates, properties, rights, powers and trusts, then any and all such deeds, conveyances and instruments in writing shall on request of said new Debenture Trustee, be made, executed, acknowledged and delivered by the Company.

12.3 Duties of Debenture Trustee

In the exercise of the rights, duties and obligations prescribed or conferred by the terms of this Indenture, the Debenture Trustee shall act honestly and in good faith and exercise that degree of care, diligence and skill that a reasonably prudent trustee would exercise in comparable circumstances.

12.4 Reliance Upon Declarations, Opinions, etc.

In the exercise of its rights, duties and obligations hereunder the Debenture Trustee may, if acting in good faith, rely, as to the truth of the statements and accuracy of the opinions expressed therein, upon statutory declarations, opinions, reports or certificates furnished pursuant to any covenant, condition or requirement of this Indenture or required by the Debenture Trustee to be furnished to it in the exercise of its rights and duties hereunder, if the Debenture Trustee examines such statutory declarations, opinions, reports or certificates and determines that they comply with Section 12.5, if applicable, and with any other applicable requirements of this Indenture. The Debenture Trustee may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. Without restricting the foregoing, the Debenture Trustee may rely on an opinion of Counsel satisfactory to the Debenture Trustee notwithstanding that it is delivered by a solicitor or firm which acts as solicitors for the Company.

The Debenture Trustee shall have no obligation to ensure or verify compliance with any applicable Laws or regulatory requirements on the issue or transfer of any Debentures or Shares provided such issue or transfer is effected in accordance with the terms of this Indenture. The Debenture Trustee shall be entitled to process all transfers and redemptions upon the presumption that such transfer or redemption is permissible pursuant to all applicable Laws and regulatory requirements if such transfer or redemption is effected in accordance with the terms of this Indenture. The Debenture Trustee shall have no obligation to ensure that legends appearing on the Debentures or Shares comply with regulatory requirements or securities Laws of any applicable jurisdiction.

12.5 Evidence and Authority to Debenture Trustee, Opinions, etc.

The Company shall furnish to the Debenture Trustee evidence of compliance with the conditions precedent provided for in this Indenture relating to any action or step required or permitted to be taken by the Company or the Debenture Trustee under this Indenture or as a result of any obligation imposed under this Indenture, including without limitation, the certification and delivery of Debentures hereunder, the satisfaction and discharge of this Indenture and the taking of any other action to be taken by the Debenture Trustee at the request of or on the application of the Company, forthwith if and when (a) such evidence is required by any other Section of this Indenture to be furnished to the Debenture Trustee in accordance with the terms of this Section 12.5, or (b) the Debenture Trustee, in the exercise of its rights and duties under this Indenture, gives the Company written notice requiring it to furnish such evidence in relation to any particular action or obligation specified in such notice. Such evidence of compliance shall consist of:

- (a) a certificate made by any one officer or director of the Company, stating that any such condition precedent has been complied with in accordance with the terms of this Indenture;
- (b) in the case of a condition precedent compliance with which is, by the terms of this Indenture, made subject to review or examination by a solicitor, an opinion of Counsel that such condition precedent has been complied with in accordance with the terms of this Indenture; and
- (c) in the case of any such condition precedent compliance with which is subject to review or examination by auditors or accountants, an opinion or report of the Auditors of the Company whom the Debenture Trustee for such purposes hereby approves, that such condition precedent has been complied with in accordance with the terms of this Indenture.

Whenever such evidence relates to a matter other than the certificates and delivery of Debentures and the satisfaction and discharge of this Indenture, and except as otherwise specifically provided herein, such evidence may consist of a report or opinion of any solicitor, auditor, accountant, engineer or appraiser or any other Person whose qualifications give authority to a statement made by him, provided that if such report or opinion is

furnished by a trustee, officer or employee of the Company it shall be in the form of a statutory declaration. Such evidence shall be, so far as appropriate, in accordance with the immediately preceding paragraph of this Section.

Each statutory declaration, certificate, opinion or report with respect to compliance with a condition precedent provided for in the Indenture shall include (a) a statement by the Person giving the evidence that he has read and is familiar with those provisions of this Indenture relating to the condition precedent in question, (b) a brief statement of the nature and scope of the examination or investigation upon which the statements or opinions contained in such evidence are based, (c) a statement that, in the belief of the Person giving such evidence, he has made such examination or investigation as is necessary to enable him to make the statements or give the opinions contained or expressed therein, and (d) a statement whether in the opinion of such Person the conditions precedent in question have been complied with or satisfied.

The Company shall furnish to the Debenture Trustee at any time if the Debenture Trustee reasonably so requires, its certificate that the Company has complied with all covenants, conditions or other requirements contained in this Indenture, the non-compliance with which would, with the giving of notice or the lapse of time, or both, or otherwise, constitute an Event of Default, or if such is not the case, specifying the covenant, condition or other requirement which has not been complied with and giving particulars of such non-compliance. The Company shall, whenever the Debenture Trustee so requires, furnish the Debenture Trustee with evidence by way of statutory declaration, opinion, report or certificate as specified by the Debenture Trustee as to any action or step required or permitted to be taken by the Company or as a result of any obligation imposed by this Indenture.

12.6 Officer's Certificates Evidence

Except as otherwise specifically provided or prescribed by this Indenture, whenever in the administration of the provisions of this Indenture the Debenture Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, the Debenture Trustee, if acting in good faith, may rely upon an Officer's Certificate.

12.7 Experts, Advisers and Agents

The Debenture Trustee may:

- (a) employ or retain and act and rely on the opinion or advice of or information obtained from any solicitor, auditor, valuer, engineer, surveyor, appraiser or other expert, whether obtained by the Debenture Trustee or by the Company, or otherwise, and shall not be liable for acting, or refusing to act, in good faith on any such opinion or advice and may pay proper and reasonable compensation for all such legal and other advice or assistance as aforesaid;
- (b) employ or retain such agents and other assistants as it may reasonably require for the proper discharge of its duties hereunder, and may pay reasonable remuneration for all services performed for it (and shall be entitled to receive reasonable remuneration for all services performed by it) in the discharge of the trusts hereof and compensation for all disbursements, costs and expenses made or incurred by it in the discharge of its duties hereunder and in the management of the trusts hereof and any solicitors employed or consulted by the Debenture Trustee may, but need not be, solicitors for the Company;

and in employing or retaining such experts, advisers and agents permitted under this Section 12.7, the Debenture Trustee shall not be responsible for any negligence, wilful misconduct or bad faith on the part of such experts, advisers and agents, provided (i) such experts, advisers and agents have acknowledged directly to the Company that they will be responsible to the Company for their negligence, wilful misconduct or bad faith, and (ii) the Debenture Trustee notifies the Company immediately following it becoming aware of any such negligence, wilful misconduct or bad faith.

12.8 Debenture Trustee May Deal in Debentures

The Debenture Trustee may, in its personal or other capacity, buy, sell, lend upon and deal in the Debentures and generally contract and enter into financial transactions with the Company or otherwise, without being liable to account for any profits made thereby.

12.9 Investment of Monies Held by Debenture Trustee

The Debenture Trustee may retain any cash balance held in connection with this Indenture and may, but need not, hold the same in its deposit department, the deposit department of one of its affiliates or the deposit department of a Canadian chartered bank; but the Debenture Trustee, its affiliates or a Canadian chartered bank shall not be liable to account for any profit to the Company or any other person or entity other than at a rate, if any, established from time to time by the Debenture Trustee, its affiliates or a Canadian chartered bank.

For the purpose of this Section 12.9, "affiliate" means affiliated companies within the meaning of the *Business Corporations Act* (Ontario) ("OBCA").

12.10 Debenture Trustee Not Ordinarily Bound

Except as provided in Section 7.2 and as otherwise specifically provided herein, the Debenture Trustee shall not, subject to Section 12.3, be bound to give notice to any Person of the execution hereof, nor to do, observe or perform or see to the observance or performance by the Company of any of the obligations herein imposed upon the Company or of the covenants on the part of the Company herein contained, nor in any way to supervise or interfere with the conduct of the Company's business, unless the Debenture Trustee shall have been required to do so in writing by the holders of not less than 25% of the aggregate Payment Amount of the Debentures then outstanding or by any Extraordinary Resolution of the Debentureholders passed in accordance with the provisions contained in Article 10, and then only after it shall have been funded and indemnified to its satisfaction against all actions, proceedings, claims and demands to which it may render itself liable and all costs, charges, damages and expenses which it may incur by so doing.

12.11 Debenture Trustee Not Required to Give Security

The Debenture Trustee shall not be required to give any bond or security in respect of the execution of the trusts and powers of this Indenture or otherwise in respect of the premises.

12.12 Debenture Trustee Not Bound to Act on Company's Request

Except as in this Indenture otherwise specifically provided, the Debenture Trustee shall not be bound to act in accordance with any direction or request of or on behalf of the Company until a duly authenticated copy of the instrument or resolution containing such direction or request shall have been delivered to the Debenture Trustee, and the Debenture Trustee shall be empowered to act upon any such copy purporting to be authenticated and believed by the Debenture Trustee to be genuine.

12.13 Conditions Precedent to Debenture Trustee's Obligations to Act Hereunder

The obligation of the Debenture Trustee to commence or continue any act, action or proceeding for the purpose of enforcing the rights of the Debenture Trustee and of the Debentureholders hereunder shall be conditional upon the Debentureholders furnishing when required by notice in writing by the Debenture Trustee, sufficient funds to commence or continue such act, action or proceeding and indemnity reasonably satisfactory to the Debenture Trustee to protect and hold harmless the Debenture Trustee against the costs, charges and expenses and liabilities to be incurred thereby and any loss and damage it may suffer by reason thereof.

None of the provisions contained in this Indenture shall require the Debenture Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties or in the exercise of any of its rights or powers unless indemnified as aforesaid.

The Debenture Trustee may, before commencing or at any time during the continuance of any such act, action or proceeding require the Debentureholders at whose instance it is acting to deposit with the Debenture Trustee the Debentures held by them for which Debentures the Debenture Trustee shall issue receipts.

12.14 Authority to Carry on Business

The Debenture Trustee represents to the Company that at the date of execution and delivery by it of this Indenture it is authorized to carry on the business of a trust company in the Provinces and Territories of Canada, but if, notwithstanding the provisions of this Section 12.14, it ceases to be so authorized to carry on business, the validity and enforceability of this Indenture and the securities issued hereunder shall not be affected in any manner whatsoever by reason only of such event but the Debenture Trustee shall, within 90 days after ceasing to be authorized to carry on the business of a trust company in the Province of Ontario, either become so authorized or resign in the manner and with the effect specified in Section 12.2.

12.15 Compensation and Indemnity

- (a) The Company shall pay to the Debenture Trustee from time to time compensation for its services hereunder as agreed separately by the Company and the Debenture Trustee, and shall pay or reimburse the Debenture Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Debenture Trustee in the administration or execution of its duties under this Indenture (including the reasonable and documented compensation and disbursements of its Counsel and all other advisers and assistants not regularly in its employ), both before any default hereunder and thereafter until all duties of the Debenture Trustee under this Indenture shall be finally and fully performed. The Debenture Trustee's compensation shall not be limited by any Law on compensation of a trustee of an express trust.
- (b) The Company hereby indemnifies and saves harmless the Debenture Trustee and its directors, officers and employees from and against any and all loss, damages, charges, expenses, claims, demands, actions or liability whatsoever which may be brought against the Debenture Trustee or which it may suffer or incur as a result of or arising out of the performance of its duties and obligations hereunder save only in the event of the negligent failure to act, or the wilful misconduct or bad faith of the Debenture Trustee. This indemnity will survive the termination or discharge of this Indenture and the resignation or removal of the Debenture Trustee. The Debenture Trustee shall notify the Company promptly of any claim for which it may seek indemnity. The Company shall defend the claim and the Debenture Trustee shall co-operate in the defence. The Debenture Trustee may have separate counsel and the Company shall pay the reasonable fees and expenses of such Counsel. The Company need not pay for any settlement made without its consent, which consent must not be unreasonably withheld. This indemnity shall survive the resignation or removal of the Debenture Trustee or the discharge of this Indenture.
- (c) Notwithstanding any of the provisions of this Indenture, the Company need not reimburse any expense or indemnify against any loss or liability incurred by the Debenture Trustee through negligence, wilful misconduct or bad faith of the Debenture Trustee.

12.16 Acceptance of Trust

The Debenture Trustee hereby accepts the trusts in this Indenture declared and provided for and agrees to perform the same upon the terms and conditions herein set forth and to hold all rights, privileges and benefits conferred hereby and by Law in trust for the various Persons who shall from time to time be Debentureholders, subject to all the terms and conditions herein set forth.

**ARTICLE 13
SUPPLEMENTAL INDENTURES**

13.1 Supplemental Indentures

From time to time the Debenture Trustee and, when authorized by a resolution of the directors of the Company and subject to any stock exchange on which the Debentures may be listed, the Company, may, and they shall when required by this Indenture, execute, acknowledge and deliver by their proper officers deeds or indentures supplemental hereto which thereafter shall form part hereof, for any one or more of the following purposes:

- (a) providing for the issuance of Additional Debentures under this Indenture;
- (b) changing or eliminating any restrictions on the payment of the principal amount, or Payment Amount of the Debentures provided that in the opinion of the Debenture Trustee (relying upon an opinion of Counsel) the rights of the Debentureholders are in no way prejudiced thereby;
- (c) adding to the covenants of the Company herein contained for the protection of the Debentureholders, or of the Debentures of any series, or providing for events of default, in addition to those herein specified;
- (d) making such provisions not inconsistent with this Indenture as may be necessary or desirable with respect to matters or questions arising hereunder, including the making of any modifications in the form of the Debentures which do not affect the substance thereof and which in the opinion of the Debenture Trustee relying on an opinion of Counsel will not be prejudicial to the interests of the Debentureholders;
- (e) altering the provisions of the Indenture in respect of the exchange or transfer of Debentures;
- (f) evidencing the succession, or successive successions, of others to the Company and the covenants of and obligations assumed by any such successor in accordance with the provisions of this Indenture;
- (g) giving effect to any action by, or any direction from, the Debentureholders permitted to be taken or given, as the case may be, by the Debentureholders under this Indenture; and
- (h) for any other purpose not inconsistent with the terms of this Indenture, provided that in the opinion of the Trustee (relying upon an opinion of Counsel) the rights of the Debentureholders are in no way prejudiced thereby.

Unless the supplemental indenture requires the consent or concurrence of Debentureholders or the holders of a particular series of Debentures, as the case may be, by an ordinary resolution or Extraordinary Resolution, the consent or concurrence of Debentureholders or the holders of a particular series of Debentures, as the case may be, shall not be required in connection with the execution, acknowledgement or delivery of a supplemental indenture. The Company and the Debenture Trustee may amend any of the provisions of this Indenture related to matters of United States Law or the issuance of Debentures into the United States in order to ensure that such issuances can be made in accordance with applicable Law in the United States without the consent or approval of the Debentureholders. Further, the Company and the Debenture Trustee may without the consent or concurrence of the Debentureholders or the holders of a particular series of Debentures, as the case may be, by supplemental indenture or otherwise, make any changes or corrections in this Indenture which it shall have been advised by Counsel are required for the purpose of curing or correcting any ambiguity or defective or inconsistent provisions or clerical omissions or clerical mistakes or manifest errors contained herein or in any indenture supplemental hereto or any Written Direction of the Company provided for the issue of Debentures, providing that in the opinion of the Debenture Trustee (relying upon an opinion of Counsel) the rights of the Debentureholders are in no way prejudiced thereby.

ARTICLE 14
EXECUTION AND FORMAL DATE

14.1 Execution

This Indenture may be simultaneously executed in several counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

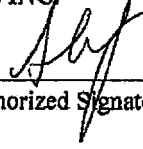
14.2 Formal Date

For the purpose of convenience this Indenture may be referred to as bearing the formal effective date of December 17, 2009, as amended and restated as of April 29, 2011, irrespective of the actual date of execution hereof.

(Remainder of page intentionally left blank. Execution page follows.)

IN WITNESS whereof the parties hereto have executed these presents under their respective corporate seals and the hands of their proper officers in that behalf.

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC**

By: 

Authorized Signatory

EQUITY FINANCIAL TRUST COMPANY

By: _____

Authorized Signatory

By: _____

Authorized Signatory

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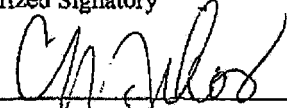
IN WITNESS whereof the parties hereto have executed these presents under their respective corporate seals and the hands of their proper officers in that behalf.

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC.**

By: _____
Authorized Signatory

EQUITY FINANCIAL TRUST COMPANY

By:  _____
Authorized Signatory

By:  _____
Authorized Signatory

SCHEDULE "A"
TO THE COMPANY INDENTURE BETWEEN
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. AND
EQUITY FINANCIAL TRUST COMPANY
FORM OF DEBENTURE

SCHEDULE "A"

This Debenture is a Global Debenture within the meaning of the amended and restated Trust Indenture dated as of April 29, 2011, between Data & Audio-Visual Enterprises Holdings Inc. and Equity Financial Trust Company (the "Indenture") and is registered in the name of a Depository or a nominee thereof. This Debenture may not be transferred to or exchanged for Debentures registered in the name of any Person other than the Depository or a nominee thereof and no such transfer may be registered except in the limited circumstances described in the Indenture. Every Debenture authenticated and delivered upon registration of, transfer of, or in exchange for, or in lieu of, this Debenture shall be a Global Debenture subject to the foregoing, except in such limited circumstances described in the Indenture.

Unless this certificate is presented by an authorized representative of CDS Clearing and Depository Services Inc. ("CDS") to Data & Audio-Visual Enterprises Holdings Inc. (the "Company") or its agent for registration of transfer, exchange or payment, and any certificate issued in respect thereof is registered in the name of CDS & CO., or in such other name as is requested by an authorized representative of CDS (and any payment is made to CDS & CO. or to such other entity as is requested by an authorized representative of CDS), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL since the registered holder hereof, CDS & CO., has a property interest in the securities represented by this certificate herein and it is a violation of its rights for another person to hold, transfer or deal with this certificate.

PRIOR TO AN INITIAL PUBLIC OFFERING IN RESPECT OF THE ISSUER OF THIS SECURITY, THE HOLDER OF THIS SECURITY MAY NOT TRANSFER IT TO A PERSON WHO IS NOT CANADIAN WITHIN THE MEANING OF SECTION 2 OF THE CANADIAN TELECOMMUNICATIONS COMMON CARRIER OWNERSHIP AND CONTROL REGULATIONS PROMULGATED PURSUANT TO THE TELECOMMUNICATIONS ACT (CANADA).

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY AND ANY SECURITIES ISSUED UPON EXERCISE OR CONVERSION OF THESE SECURITIES MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) [DATE OF ISSUANCE], AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY.

CUSIP: 237576AA1

No. ●

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DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

SERIES 2009 15.0% SENIOR UNSECURED DEBENTURE
DUE SEPTEMBER 25, 2018

Registered in the name of: CDS & Co.

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. (the "Company") for value received hereby acknowledges itself indebted and, subject to the provisions of the amended and restated trust indenture (the "Indenture") dated as of April 29, 2011, (the "Closing Date") between the Company and Equity Financial Trust Company (the "Debenture Trustee"), promises to pay to the registered holder hereof on September 25, 2018 (the "Initial Debenture Maturity Date") or on such earlier date as the amount equal to the principal amount of such Initial Debenture (as defined below), together with any Initial Debenture Interest Obligation (as defined below) added and recorded to the Register (the "Initial Debenture Payment Amount"), may become due in accordance with the provisions of the Indenture in lawful money of Canada on presentation and surrender of this Debenture at the principal office of the Debenture Trustee in Toronto, Ontario in accordance with the terms of the Indenture and, subject as hereinafter provided (the "Initial Debenture"), to pay interest on the Initial Debenture Payment Amount remaining from time to time unpaid and outstanding from, and including, the date hereof, at the rate of 15.0% per annum, payable in arrears (with the exception of the first interest payment and the last interest payment, which will include interest as set forth below) semi-annual payments (the "Initial Debenture Interest

Obligation") on June 30 and December 31 in each year (each, an "Initial Debenture Interest Payment Date"), the first such payment to fall due on June 30, 2010 (in respect of Initial Debentures issued on December 17, 2009) or June 30, 2011 (in respect of Initial Debentures issued on April 29, 2011) and the last such payment (representing interest payable from the last Initial Debenture Interest Payment Date to, but excluding, the Initial Debenture Maturity Date) to fall due on September 25, 2018, payable after as well as before maturity and after as well as before default, with interest on amounts in default at the same rate, compounded semi-annually. The first interest payment in respect of Initial Debentures issued on December 17, 2009 included interest accrued from, and including December 17, 2009 to, but excluding June 30, 2010, and was equal to \$80.1370 per \$1,000 principal amount of the Initial Debentures. The first interest payment in respect of Initial Debentures issued on April 29, 2011 will include interest accrued from, and including April 29, 2011 to, but excluding June 30, 2011 and will be equal to \$25.4795 per \$1,000 principal amount of the Initial Debentures.

Any Initial Debenture Interest Obligation shall be payable to the Debentureholders by the Company providing a Written Direction of the Company to the Debenture Trustee to add such amount to the outstanding Initial Debenture Payment Amount and record such amount on the Register (which the Debenture Trustee agrees to do), and such amount shall thereafter bear interest itself as provided herein until such time it is paid. The aggregate Initial Debenture Payment Amount in respect of the aggregate Initial Debentures shall be paid to the next \$1,000 increment. In recording such amount on the Register, the Debenture Trustee shall be fully protected in acting and relying upon the Written Direction of the Company. Notwithstanding the foregoing, prior to an IPO (as defined in the Indenture), the Company may elect, in its sole discretion and if permitted under the First Lien Note Indenture (as defined in the Indenture), to pay such Initial Debenture Interest Obligation in cash in the manner provided in the Indenture, by delivering to the Debenture Trustee a notice in writing not less than ten (10) Business Days prior to the applicable Initial Debenture Interest Payment Date (and the Debenture Trustee shall promptly deliver such notice to the Depository).

Notwithstanding the foregoing paragraph, on or after the closing date of the IPO (the "IPO Date"), the Company may elect, in its sole discretion and if permitted under the First Lien Note Indenture, to pay the amount of interest due (the "Initial Debenture Interest Obligation") in cash, provided the Company has delivered to the Debenture Trustee a notice in writing not less than ten (10) Business Days prior to the applicable Initial Debenture Interest Payment Date. If the Company elects to pay such Initial Debenture Interest Obligation in cash, interest hereon shall be payable by cheque mailed by prepaid ordinary mail, by electronic transfer of funds, or by such other means as may be agreed to by the Debenture Trustee, to the registered holder hereof and, subject to the provisions of the Indenture, the mailing of such cheque or payment by electronic funds transfer shall, to the extent of the sum represented thereby (plus the amount of any tax withheld and remitted), satisfy and discharge all liability for Initial Debenture Interest Obligation. In the event the Company does not so elect, not less than ten (10) Business Days prior to the applicable Initial Debenture Interest Payment Date, the Company shall provide the Debenture Trustee with written notice that it will not be paying the Initial Debenture Interest Obligation in cash (and the Debenture Trustee shall promptly deliver such notice to the Depository).

On or after the IPO Date, if the Debenture Trustee has received a notice that the Company will not be paying the Initial Debenture Interest Obligation in cash at least ten (10) Business Days prior to the applicable Initial Debenture Interest Payment Date, the Debentureholder may (via their Depository Participant) elect, by delivering to the Company and the Debenture Trustee a notice in writing not less than five (5) Business Days prior to the applicable Interest Payment Date, to receive the Initial Debenture Interest Obligation in that number of Shares obtained by dividing the interest payment by the greater of (x) \$12.00 and (y) 95% of the volume-weighted average trading price of the Shares on the Recognized Stock Exchange for the twenty (20) consecutive trading days ending ten (10) Business Days prior to the applicable Initial Debenture Interest Payment Date (if such trading price is in U.S. dollars, such trading price shall be converted into Canadian dollars by using the U.S. dollar / Canadian dollar noon rate of exchange as reported by the Bank of Canada on the tenth Business Day prior to the applicable Interest Payment Date), with any fractional shares being paid, at the option of the Company, in its sole discretion, in cash if permitted under the First Lien Note Indenture, or by issuing one whole Share. The Shares to be so issued shall be the same class of Shares the IPO Shares (defined below). The certificates for such Shares shall bear such restrictive or other legends as may be advised by legal counsel to the Company. In connection with the issuance of Shares hereunder, the Debenture Trustee shall: (a) accept delivery of the Shares from the Company, (b) deliver the Shares to the Debentureholder, and (c) perform any other action necessarily incidental thereto.

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Notwithstanding the foregoing three paragraphs above, with respect to any Initial Debenture Interest Payment Date occurring after April 29, 2013, the Debentureholders may (via their Depository Participant) elect and direct the Company, by delivering to the Company and the Debenture Trustee a notice in writing not less than fifteen (15) Business Days prior to the applicable Interest Payment Date, to pay the Initial Debenture Interest in cash, provided that such Initial Debenture Interest Obligation shall be calculated at the rate of 13.5% per annum, and (A) whether or not an IPO has already occurred, in the event a Debentureholder does not elect to receive the Initial Debenture Interest Obligation in cash, the Debentureholder shall receive the Initial Debenture Interest Obligation as described in the three paragraphs above; or (B) in the event a Debentureholder has elected to receive the Initial Debenture Interest Obligation in cash as described in this paragraph, and (i) an IPO has not yet occurred and the Company subsequently does not elect to pay such Initial Debenture Interest Obligation in cash, the Company shall pay, in cash, such Initial Debenture Interest Obligation at the rate of 13.5% per annum; (ii) whether or not an IPO has already occurred and the Company subsequently elects to pay such Initial Debenture Interest Payment in cash, the Debentureholder shall be deemed to have not made its election to receive the Initial Debenture Interest Obligation at the rate of 13.5% per annum and shall receive such Initial Debenture Interest Obligation, in cash, at the rate of 15.0% per annum (instead of 13.5% per annum); or (iii) an IPO has already occurred and the Company subsequently does not elect to pay such Initial Debenture Interest Obligation in cash, the Company shall pay, in cash, such Initial Debenture Interest Obligation at the rate of 13.5% per annum, and the Debentureholder shall not have the right to elect to receive shares as described in the paragraph above.

On the IPO Date, the Company shall redeem on a pro rata basis (based on the aggregate Initial Debenture Payment Amount outstanding) the Initial Debenture Redeemed Interest Amount by issuing and delivering to the Debenture Trustee that number of Shares that are sold or issued to the public pursuant to the IPO (the "IPO Shares") obtained by dividing such Initial Debenture Redeemed Interest Amount by the price of the IPO Shares (if such share price is in U.S. dollars, such price shall be converted into Canadian dollars by using the U.S. dollar / Canadian dollar noon rate of exchange as reported by the Bank of Canada on the tenth Business Day prior to the applicable Interest Payment Date), with any fractional shares being paid, at the option of the Company, in its sole discretion, in cash, if permitted under the First Lien Note Indenture, or by issuing one whole IPO Share, and interest upon such Initial Debenture Redeemed Interest Amount (as defined below) shall cease to be payable from and after the IPO Date. The "Initial Debenture Redeemed Interest Amount" is an amount equal to the sum of (A) 50% of any Initial Debenture Interest Obligation paid in accordance with the Indenture (that has not been otherwise paid in cash), and (B) any accrued and unpaid interest on such amounts referred to in item (A) above (which, for greater certainty, have not yet been included in the Initial Debenture Payment Amount), calculated up to but excluding the IPO Date. In connection with the issuance of IPO Shares hereunder, the Debenture Trustee shall: (a) accept delivery of the IPO Shares from the Company, (b) deliver the IPO Shares to the Debentureholder, and (c) perform any other action necessarily incidental thereto.

Subject to the provisions of the Indenture, on each date that is 18 months following the date of issuance of the Initial Debentures, and each six-month anniversary thereafter (each an "Issue Date"), the Company shall issue and deliver to the Debenture Trustee, up to 190,000 Warrants (in respect of all outstanding Initial Debentures), where one CW Warrant and one B Warrant will be delivered to Debentureholders for every \$1,000 of principal amount of Initial Debentures held by such Debentureholder. Each CW Warrant shall entitle the holder thereof to purchase one Common Share at a price of \$12.00 per Common Share, and each B Warrant shall entitle the holder thereof to purchase one Class B Share at a price of \$12.00 per Class B Share. The certificate(s) for any Warrants issued will bear such restrictive or other legends as may be advised by Counsel to the Company. In connection with the issuance of Warrants hereunder, the Debenture Trustee shall: (a) accept delivery of the Warrants from the Company, (b) deliver the Warrants to the Debentureholder, and (c) perform any other action necessarily incidental thereto. Upon the earlier of (x) the occurrence of a Liquidity Event, or (y) the date no Initial Debentures are outstanding, the Company shall no longer have any obligation to issue such Warrants on an Issue Date as herein provided.

This Initial Debenture is one of the Series 2009 15% Senior Unsecured Debentures due September 25, 2018 of the Company issued under the provisions of the Indenture. The Initial Debentures authorized for issue are limited to an aggregate principal amount of \$95,000,000 in lawful money of Canada. Reference is hereby expressly made to the Indenture for a description of the terms and conditions upon which the Initial Debentures are issued and held and the rights and remedies of the holders of the Initial Debentures and of the Company and of the Debenture Trustee, all to the same effect as if the provisions of the Indenture were herein set forth to all of which provisions the holder of this Initial Debenture by acceptance hereof assents. To the extent that anything contained

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herein is inconsistent with or conflicts with the provisions of the Indenture, the provisions of the Indenture shall govern. Any capitalized terms used herein but not otherwise defined have the meanings given to them in the Indenture.

The Initial Debentures are issuable only in denominations of \$1,000 and integral multiples thereof. Upon compliance with the provisions of the Indenture, Debentures in any authorized form or denomination may be exchanged for Debentures in any other authorized form or denomination, of the same series and date of maturity, bearing the same interest rate and of the same aggregate principal amount as the Debentures so exchanged. Debentures of any series may be exchanged only at the principal offices of the Debenture Trustee in the city of Toronto, Ontario or at such other place or places, if any, as may be specified in the Debentures of such series and at such other place or places as may from time to time be designated by the Company with the approval of the Debenture Trustee. Any Debentures tendered for exchange shall be surrendered to the Debenture Trustee. The Company shall execute and the Debenture Trustee shall certify all Debentures necessary to carry out exchanges as aforesaid. All Debentures surrendered for exchange shall be cancelled. Debentures issued in exchange for Debentures which at the time of such issue have been selected or called for redemption at a later date shall be deemed to have been selected or called for redemption in the same manner and shall have noted thereon a statement to that effect. No Debentures may be transferred or exchanged during the five Business Days preceding and including (i) June 30 and December 31 in each year, and (ii) the day of any selection by the Debenture Trustee of Debentures to be redeemed, as the registers of the Debenture Trustee will be closed during such periods.

This Initial Debenture may be redeemed at the option of the Company on the terms and conditions set out in the Indenture at the redemption price therein and herein set out. The Company may, on notice as provided in the Indenture, at its option, prior to the date that is 18 months following the date of issuance of the Initial Debentures, redeem, in whole or in part from time to time, at a Redemption Price equal to 107.5% of the Initial Debenture Payment Amount as reflected on the Register, and in addition thereto, at the time of redemption, the Company shall pay to the holder accrued and unpaid interest thereon. From and after the date that is 18 months following the date of issuance of the Initial Debentures, the Company may, on notice, as provided in the Indenture, at its option, redeem, in whole or in part from time to time, at a Redemption Price equal to the Initial Debenture Payment Amount as reflected on the Register, and in addition thereto, at the time of redemption, the Company shall pay to the holder accrued and unpaid interest thereon. If less than all the Debentures of any series for the time being outstanding are at any time to be redeemed, the Debentures to be so redeemed shall be selected by the Debenture Trustee on a pro rata basis to the nearest multiple of \$1,000 in accordance with the Payment Amount of the Debentures registered in the name of each holder or in such other manner as the Debenture Trustee deems equitable, subject to regulatory approval, if any. Unless otherwise specifically provided in the terms of any series of Debentures, no Debenture shall be redeemed in part unless the Payment Amount redeemed is \$1,000 or a multiple thereof.

Within 30 days following the occurrence of a Change of Control of the Company, the Company is required to make an offer to purchase all of the Initial Debentures at a price equal to (x) 101% of the Initial Debenture Payment Amount plus (y) accrued and unpaid interest (if any) up to, but excluding, the date the Initial Debentures are so repurchased (the "Offer"). If 90% or more of the Initial Debenture Payment Amount of all Initial Debentures outstanding on the date the Company provides notice of a Change of Control to the Debenture Trustee have been tendered for purchase pursuant to the Offer, the Company has the right and obligation upon written notice provided to the Debenture Trustee within 10 days following the expiration of the Offer, to redeem and shall redeem all the Initial Debentures remaining outstanding on the Offer effective as of the same date and at the same price.

The indebtedness evidenced by this Initial Debenture, and by all other Initial Debentures now or hereafter certified and delivered under the Indenture, is a direct unsecured obligation of the Company, and is subordinated in right of payment, to the extent and in the manner provided in the Indenture, to the prior payment of all Senior Indebtedness, whether outstanding at the date of the Indenture or thereafter created, incurred, assumed or guaranteed. The Initial Debentures will rank *pari passu* with each other series of Debentures and, subject to statutory preferred exceptions, with all other present and future unsecured Indebtedness of the Company, including for greater certainty, up to \$59,741,000 principal amount of unsecured convertible debentures issued by the Company to Quadrangle or DAVE Investments, as the case may be, together with any payment in kind or other accrued or capitalized interest, except, in each case for (i) sinking fund provisions (if any) applicable to different series of Debentures, (ii) any unsecured Indebtedness which by its terms is subordinated in rank to the Debentures, including \$35 million principal amount of unsecured convertible debentures which may be issued by the Company

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to Quadrangle or DAVE Investments, as the case may be, pursuant to the Commitment Agreement, and (iii) any Indebtedness incurred in compliance with Section 6.14(d) of the Indenture.

The Initial Debenture Payment Amount hereof may become or be declared due and payable before the stated maturity in the events, in the manner, with the effect and at the times provided in the Indenture.

The Indenture contains provisions making binding upon all holders of Debentures outstanding thereunder (or in certain circumstances specific series of Debentures) resolutions passed at meetings of such holders held in accordance with such provisions and instruments signed by the holders of a specified majority of Debentures outstanding (or specific series), which resolutions or instruments may have the effect of amending the terms of this Initial Debenture or the Indenture.

The Indenture contains certain restrictions on transfer of Initial Debentures to, prior to an IPO, persons who are not Canadians within the meaning of the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada) including provisions that allow the Company to refuse to issue or register a transfer of Initial Debentures to persons who are not as such "Canadian" and allow the Debenture Trustee to correct the Register with the written direction of the Company.

The Indenture contains provisions disclaiming any personal liability on the part of holders of Shares, officers and directors of the Company, or any annuitant under a plan of which a shareholder of the Company acts as trustee or carrier in respect of any obligation or claim arising out of the Indenture or this Initial Debenture.

This Initial Debenture may only be transferred, upon compliance with the conditions prescribed in the Indenture, in one of the registers to be kept at the principal office of the Debenture Trustee in Toronto, Ontario and in such other place or places and/or by such other registrars (if any) as the Company with the approval of the Debenture Trustee may designate. No transfer of this Initial Debenture shall be valid unless made on the register by the registered holder hereof or his executors or administrators or other legal representatives, or his or their attorney duly appointed by an instrument in form and substance satisfactory to the Debenture Trustee or other registrar, and upon compliance with such reasonable requirements as the Debenture Trustee and/or other registrar may prescribe and upon surrender of this Initial Debenture for cancellation. Thereupon a new Initial Debenture or Initial Debentures in the same aggregate principal amount shall be issued to the transferee in exchange hereof.

This Initial Debenture shall not become obligatory or shall entitle the holder to the benefits of the Indenture for any purpose until it shall have been manually certified by the Debenture Trustee under the Indenture.

If any of the provisions of this Initial Debenture are inconsistent with the provisions of the Indenture, the provisions of the Indenture shall take precedence and shall govern.

IN WITNESS WHEREOF DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. has caused this Debenture to be signed by its authorized representatives effective as of the [17th day of December, 2009 (in respect of Initial Debentures issued on December 17, 2009) OR 29th day of April, 2011 (in respect of Initial Debentures issued on April 29, 2011)].

DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC.

By: _____

(FORM OF DEBENTURE TRUSTEE'S CERTIFICATE)

This Initial Debenture is one of the Series 2009 15.0% Senior Unsecured Debentures due September 25, 2018 referred to in the Indenture within mentioned.

EQUITY FINANCIAL TRUST COMPANY

By: _____
(Authorized Officer)

(FORM OF INTEREST ADJUSTMENTS PANEL)

(No writing hereon except by Debenture Trustee or other registrar)

[illegible]

FORM OF ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____, whose address and social insurance number, if applicable, are set forth below, this Initial Debenture (or \$ _____ Payment Amount hereof*) of Data & Audio-Visual Enterprises Holdings Inc. standing in the name(s) of the undersigned in the register maintained by the Company with respect to such Initial Debenture and does hereby irrevocably authorize and direct the Debenture Trustee to transfer such Initial Debenture in such register, with full power of substitution in the premises.

Dated: _____

Address of Transferee: _____
(Street Address, City, Province and Postal Code)

Social Insurance Number of Transferee, if applicable: _____

*If less than the full Payment Amount of the within Initial Debenture is to be transferred, indicate in the space provided the Payment Amount (which must be \$1,000 or an integral multiple thereof, unless you hold an Initial Debenture in a non-integral multiple of 1,000 by reason of your having exercised your right to exchange upon the making of an Offer, in which case such Initial Debenture is transferable only in its entirety) to be transferred.

1. The signature(s) to this assignment must correspond with the name(s) as written upon the face of this Initial Debenture in every particular without alteration or any change whatsoever. The signature(s) must be guaranteed by a Canadian chartered bank or trust company or by a member of an acceptable Medallion Guarantee Program. Notarized or witnessed signatures are not acceptable as guaranteed signatures. The Guarantor must affix a stamp bearing the actual words: "SIGNATURE GUARANTEED".
2. The registered holder of this Initial Debenture is responsible for the payment of any documentary, stamp or other transfer taxes that may be payable in respect of the transfer of this Debenture.
3. The registered holder of this Initial Debenture is solely responsible for ensuring that the transfer of this Initial Debenture is being made in accordance with applicable laws, including securities laws and Canadian telecommunications legislation, and in accordance with the terms and conditions of the Indenture in respect of such Initial Debentures. Any transfer in violation of these requirements shall be deemed to not have occurred, and the Company shall not be affected or bound by any such transfer.

Signature of Guarantor:

Authorized Officer

Signature of transferring registered holder

Name of Institution

SCHEDULE "B"
TO THE COMPANY INDENTURE BETWEEN
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. AND
EQUITY FINANCIAL TRUST COMPANY
FORM OF REDEMPTION NOTICE

SCHEDULE "B"**Form of Redemption Notice
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.****Series 2009 15.0% SENIOR UNSECURED DEBENTURES
DUE SEPTEMBER 25, 2018****REDEMPTION NOTICE**

To: Debentureholders of 15.0% Senior Unsecured Debentures due September 25, 2018 (the "Debentures") of Data & Audio-Visual Enterprises Holdings Inc. (the "Company")

And to: Equity Financial Trust Company (the "Debenture Trustee")

Note: All capitalized terms used herein have the meaning ascribed thereto in the Indenture mentioned below, unless otherwise indicated.

Notice is hereby given pursuant to Section 4.3 of the amended and restated trust indenture (the "Indenture") dated as of April 29, 2011, between the Company and Equity Financial Trust Company, as trustee, that, subject to applicable law, the Company intends to redeem an aggregate principal amount of \$_____ of the outstanding Debentures in accordance with the terms of the Indenture on [month] [day], [year] (the "Redemption Date"). The aggregate redemption price (the "Redemption Price") for the Redeemed Debentures is \$_____, which includes all accrued and unpaid interest on the Redeemed Debentures to but excluding the Redemption Date.

REDEMPTION DATE:

PRINCIPAL AMOUNT:

PAYMENT AMOUNT:

ACCRUED AND UNPAID INTEREST:
(to but excluding the Redemption Date)

REDEMPTION PRICE:

The Redemption Price will be payable upon presentation and surrender of the Debentures called for redemption at the following corporate trust office:

Equity Financial Trust Company
Attention: Corporate Trust
200 University Avenue, Suite 400
Toronto, ON M5H 4H1

The interest upon the principal amount of Debentures called for redemption shall cease to be payable from and after the Redemption Date, unless payment of the Redemption Price shall not be made on presentation for surrender of such Debentures at the above-mentioned corporate trust office on or after the Redemption Date or prior to the setting aside of the Redemption Price pursuant to the Indenture.

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DATED:

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC.**

(Authorized Signatory)

SCHEDULE "C"
TO THE COMPANY INDENTURE BETWEEN
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. AND
EQUITY FINANCIAL TRUST COMPANY
FORM OF WARRANT

SCHEDULE "C"

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
WARRANT CERTIFICATE

Certificate No. ●

● Warrants

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY AND ANY SECURITIES ISSUED UPON EXERCISE OR CONVERSION OF THESE SECURITIES MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) [INSERT THE DISTRIBUTION DATE], AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY."

"THE SECURITIES REPRESENTED HEREBY AND ANY SECURITIES ISSUABLE UPON EXERCISE OR CONVERSION OF THESE SECURITIES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY ACQUIRING SUCH SECURITIES, AGREES FOR THE BENEFIT OF DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. (THE "COMPANY"), THAT SUCH SECURITIES MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE COMPANY, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT AND IN COMPLIANCE WITH APPLICABLE CANADIAN LOCAL LAWS AND REGULATIONS, OR (C) WITHIN THE UNITED STATES IN ACCORDANCE WITH (1) RULE 144 UNDER THE SECURITIES ACT, IF AVAILABLE, AND IN COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS OR (2) PURSUANT TO A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS AND THE SELLER HAS FURNISHED A LEGAL OPINION SATISFACTORY TO THE COMPANY."

THE SECURITIES REPRESENTED HEREBY WILL BE VOID AFTER THE TIME OF EXPIRY AS DESCRIBED HEREIN. DO NOT DESTROY THIS WARRANT CERTIFICATE.

THIS CERTIFIES that, for value received, ● (the "Holder") is the registered holder of ● warrants (the "Warrants") of DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. (the "Company"). Each Warrant will entitle the Holder, subject to the terms and conditions set forth in this certificate or by a replacement certificate (in either case, the "Warrant Certificate"), to acquire from the Company, (i) prior to an IPO, one fully paid and non-assessable [Common Share OR Class B Share], or (ii) from and after an IPO, one fully paid and non-assessable Share (that is of the same class as an IPO share), at any time commencing on the date hereof and continuing up to 5:00 p.m. (Eastern time) on September 25, 2018 (the "Time of Expiry"), on payment of \$12.00 (twelve dollars) per Share (the "Exercise Price"), provided, however, in the event that a Change of Control has been approved by the requisite majority of the holders of Shares before September 25, 2018, and (x) the price of Shares offered pursuant to the Change of Control is equal to or greater than the Exercise Price, then the Time of Expiry shall be accelerated to the closing time of the Change of Control transaction (and the Holder shall have the right to conditionally exercise such Warrants prior to the closing time of the Change of Control transaction, failing which the Warrants shall expire); or (y) the price of Shares offered pursuant to the Change of Control is less than the Exercise Price, then the Board of Directors of the Company may elect, in its sole discretion, to purchase for cancellation the outstanding Warrants at the time of, and conditional upon, the closing of the Change of Control transaction in consideration of payment to the Holder of an amount in cash equal to the fair market value of such Warrants, determined as of the date immediately prior to the announcement of the Change of Control transaction and as determined by an independent financial valuator selected by the Board of Directors, acting reasonably and in good faith, and as validated by GMP Securities L.P. and one other nationally recognized and reputable financial advisor. The number of Shares which the holder is entitled to acquire upon exercise of the Warrants and the Exercise Price are subject to adjustment as hereinafter provided, as applicable. The Company shall provide the Holder written notice of a Change of Control at least ten (10) Business Days prior to the effective date of the occurrence of a Change of Control. For the purposes of this

Agreement, the term "Shares" shall mean the [Common Shares or Class B Shares] and/or the Shares that are of the same class as the IPO Shares, as the context requires.

Section 1 Defined Terms.

Capitalized terms used in this Warrant Certificate and not otherwise defined have the meanings given to them in Schedule 1, unless there is something in the subject matter or context inconsistent therewith.

Section 2 Rules of Interpretation.

In this Warrant Certificate:

- (1) the division of this Warrant Certificate into Sections and the insertion of headings are for convenient reference only and do not affect its interpretation;
- (2) any reference in this Warrant Certificate to gender includes all genders. Words importing the singular number also include the plural and vice versa;
- (3) all references in this Warrant Certificate to dollars or to "\$" are expressed in Canadian currency unless otherwise specifically indicated;
- (4) the words "including", "includes" and "include" mean "including (or includes or include) without limitation", and (ii) the words "the aggregate of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of". The expressions "Section" and other subdivision followed by a number mean and refer to the specified Section or other subdivision of the Warrant Certificate;
- (5) in the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding";
- (6) except as otherwise provided in this Warrant Certificate, any reference in this Warrant Certificate to a statute refers to such statute and all rules and regulations made under it as they may have been or may from time to time be amended, re-enacted or superseded; and
- (7) the schedules attached to this Warrant Certificate form an integral part of it for all purposes of it.

Section 3 Exercise of Warrants.

- (1) **Election to Purchase.** The rights evidenced by this Warrant Certificate may be exercised by the Holder in whole or in part and in accordance with the provisions hereof by delivery of an election to exercise substantially in the form attached hereto as Schedule 3(1) (the "Election to Exercise"), properly completed and executed, together with payment of the Exercise Price for the number of Shares specified in the Election to Exercise at the office of the Company at Suite 2300 Canada Trust Tower, Brookfield Place, 161 Bay Street, Toronto, Ontario M5J 2S1, or such other address as may be specified in writing by the Company. In the event that the rights evidenced by this Warrant Certificate are exercised in part, the Company will, contemporaneously with the issuance of the Shares issuable on the exercise of the Warrants so exercised, issue to the Holder a replacement certificate representing the unexercised balance of the Warrants. Notwithstanding the foregoing, the Holder shall not be permitted to exercise any Warrants if such exercise would or would reasonably be expected to result in a breach of Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada), the relevant provisions of which are attached hereto as Appendix "A", and the Company shall be entitled to reject any such exercise in its discretion, acting reasonably.

(2) Exercise. Subject to Section 3(1), the Company will, on the date it receives a duly executed Election to Exercise and a payment equal to the aggregate Exercise Price for the number of Shares specified in the Election to Exercise (the "Exercise Date"), issue that number of Shares specified in the Election to Exercise as fully paid and non-assessable Shares of the Company.

(3) Share Certificate. As promptly as practicable after the Exercise Date and, in any event, within five (5) Business Days of receipt of the Election to Exercise, the Company will issue and deliver to the Holder, registered in such name or names as the Holder may direct or if no such direction has been given, in the name of the Holder, a certificate or certificates for the number of Shares making up the Shares specified in the Election to Exercise. To the extent permitted by Law, such exercise will be deemed to have been effected as of the close of business on the Exercise Date, and at such time the rights of the Holder with respect to the number of Warrants which have been exercised as such will cease, and the Person or Persons in whose name or names any certificate or certificates for Shares will then be issuable upon such exercise will be deemed to have become the holder or holders of record of the Shares represented thereby. The certificate(s) for any Shares issued pursuant to the exercise of the Warrants will bear such restrictive or other legends as may be advised by counsel to the Company.

(4) Exercise by U.S. Person. The Warrants represented hereby and Shares which may be acquired hereunder have not been registered under the United States *Securities Act of 1933*, as amended (the "U.S. Securities Act") or applicable state securities Laws, and the Warrants evidenced by this Warrant Certificate may not be exercised by or on behalf of any "U.S. person", as such term is defined in Regulation S under the U.S. Securities Act, or a person within the United States unless registered under the U.S. Securities Act or pursuant to an applicable exemption from registration under the U.S. Securities Act and applicable state securities Laws and the Company has received an opinion of counsel of recognized standing to such effect in form and substance satisfactory to the Company; provided to the extent the Holder exercising the Warrants represented hereby is the original registered holder of the Warrants then the Holder need only confirm its status as an "accredited investor", as defined in Rule 501(a) of Regulation D under the U.S. Securities Act, at the time of exercise of the Warrants.

Section 4 Anti-Dilution Protection

(1) If at any time there occurs:

- (a) a reclassification or redesignation of the Shares, any change of the Shares into other shares or securities or any other capital reorganization involving the Shares;
- (b) a consolidation, amalgamation, arrangement, takeover or merger of the Company with or into any other body corporate which results in a reclassification or redesignation of the Shares or a change of the Shares into other shares or securities;
- (c) the transfer of the undertaking or assets of the Company as an entirety or substantially as an entirety to another corporation or entity;
- (d) the subdivision, redivision or change of the outstanding Shares into a greater number of Shares;
- (e) the reduction, consolidation or combination of the outstanding Shares into a lesser number of Shares (any of such events listed in items (a) through (e) inclusive being herein called a "Capital Reorganization");
- (f) the fixing of a record date for the issue of, or the issuance of, Shares (or securities convertible or exchangeable into Shares) to the holders of all or substantially all of the outstanding Shares by way of a stock dividend or other distribution of Shares or securities exchangeable or convertible into Shares; or
- (g) the fixing of a record date for the distribution to, or the distribution to, the holders of all or substantially all of the Shares payable in Shares or securities exchangeable for or convertible

into Shares or any other property (any of such events listed in items (f) and (g) being herein called a "Distribution"),

after the effective date of the Capital Reorganization or Distribution the Holder will be entitled to receive, and shall accept, for the same aggregate consideration, upon exercise of the Warrants, in lieu of the number of Shares to which the Holder was theretofore entitled upon the exercise of the Warrants, the kind and aggregate number of shares and other securities or property resulting from the Capital Reorganization and/or Distribution which the Holder would have been entitled to receive as a result of the Capital Reorganization and/or Distribution if, on the effective date thereof, the Holder had been the registered holder of the number of Shares to which the Holder was theretofore entitled to purchase or receive upon the exercise of the Warrants. If necessary, as a result of any Capital Reorganization and/or Distribution, appropriate adjustments will be made in the application of the provisions of this Warrant Certificate with respect to the rights and interest thereafter of the Holder to the end that the provisions of this Warrant Certificate will thereafter correspondingly be made applicable as nearly as may reasonably be possible in relation to any shares or other securities or property thereafter deliverable upon the exercise of the Warrants.

(2) With respect to any rights or warrants (the "Rights") that may be issued or distributed pursuant to any shareholder rights plan that the Company implements after the date of this Warrant Certificate (a "Rights Plan"), to the extent that such Rights Plan is in effect at the Exercise Date, the holders of Warrants will receive, with respect to the Shares issued upon such exercise, the Rights described therein (whether or not the Rights have separated from the Shares at the time of exercise), subject to the limitations set forth in and in accordance with any such Rights Plan; provided that, if, at the time of exercise, however, the Rights have separated from the Shares in accordance with the provisions of the Rights Plan so that holders of Warrants would not be entitled to receive any rights in respect of the Shares issuable upon exercise of the Warrants as a result of the timing of the Exercise Date, then (unless the Company distributes such Rights to the holders of Warrants at the time of separation as if each holder had exercised their Warrants immediately prior to the record date with respect to such distribution) the Share Rate in effect immediately prior to the record date fixed for the determination of shareholders of the Company entitled to receive such Rights on separation shall be adjusted so that the same shall equal the rate determined by multiplying the Share Rate in effect immediately prior to such record date by a fraction of which the numerator shall be the Current Market Price per Share on such record date and of which the denominator shall be Current Market Price per Share on such record date less the fair market value (as determined in good faith by the Company's Board of Directors, whose determination shall be conclusive evidence of such fair market value) on such record date of the Rights applicable to one Share, subject to appropriate readjustment in the event of the expiration, termination, repurchase or redemption of the Rights. Other than as specified in this Section 4(2), there will not be any adjustment to the Share Rate as the result of the issuance of any Rights, the distribution of separate certificates representing such Rights, the exercise or redemption of such Rights in accordance with any Rights Plan or the termination or invalidation of any Rights.

(3) If any issuer bid made by the Company or any of its Subsidiaries for all or any portion of Shares expires, then, if the issuer bid shall require the payment to shareholders of the Company of consideration per Share having a fair market value (determined as provided below) that exceeds the Closing Price on a Recognized Stock Exchange on the Trading Day next succeeding the last date (the "Expiration Date") deposits could have been made pursuant to such issuer bid (as it may be amended) (the last time at which such tenders could have been made on the Expiration Date is hereinafter sometimes called the "Expiration Time"), the Share Rate shall be increased so that the same shall equal the rate determined by multiplying the Share Rate in effect immediately prior to the close of business on the Expiration Date by a fraction of which the numerator shall be the sum of (A) the fair market value of the aggregate consideration (the fair market value as determined in good faith by the Company's board of directors, whose determination shall be conclusive evidence of such fair market value) payable to shareholders of the Company based on the acceptance (up to any maximum specified in the terms of the issuer bid) of all Shares validly tendered and not withdrawn as of the Expiration Time (the Shares deemed so accepted, up to any such maximum, being referred to as the "Purchased Shares") and (B) the product of the number of Shares outstanding (less any Purchased Shares and excluding any Shares held in the treasury of the Company) at the Expiration Time and the Closing Price per Share on the Trading Day next succeeding the Expiration Date and the denominator of which shall be the product of the number of Shares outstanding (including Purchased Shares but excluding any Shares held in the treasury of the Company) at the Expiration Time multiplied by the Closing Price per Shares on the Trading Day next succeeding the Expiration Date, such increase to become effective immediately prior to the opening of business on the seventh Trading Day following

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the Expiration Date. In the event that the Company is obligated to purchase Shares pursuant to any such issuer bid, but the Company is permanently prevented by applicable Law from effecting any or all such purchases or any or all such purchases are rescinded, the Share Rate shall again be adjusted to be the Share Rate which would have been in effect based upon the number of shares actually purchased, if any. If the application of Section 4(3) to any issuer bid would result in a decrease in the Share Rate, no adjustment shall be made for such issuer bid under this Section 4(3).

- (4) Rules. The following rules and procedures will be applicable to adjustments made pursuant to Section 4(1) of this Warrant Certificate.
- (a) Subject to the following provisions of this Section 4(2), any adjustment made pursuant to Section 4(1) hereof will be made successively whenever an event referred to therein will occur.
 - (b) No adjustment will be made in the number of Shares purchasable or issuable on the exercise of the Warrants unless it would result in a change of at least one one-hundredth of a Share; provided, however, that any adjustments which except for the provisions of this Section 4(4)(b) would otherwise have been required to be made will be carried forward and taken into account in any subsequent adjustment.
 - (c) If at any time prior to the Time of Expiry, the Company will take any action affecting the Shares, other than an action or an event described in Section 4(1) hereof, which in the opinion of the Board would have a material adverse effect upon the rights of the Holder under this Warrant Certificate, the number of Shares purchasable under this Warrant Certificate will be adjusted in such manner and at such time as the Board may determine to be equitable in the circumstances.
 - (d) No adjustment in the number or kind of securities purchasable on the exercise of the Warrants will be made in respect of any event described in Section 4 hereof if the Holder is entitled to participate in such event on the same terms *mutatis mutandis* as if the Holder had exercised the Warrants prior to or on the record date or effective date, as the case may be, of such event.
 - (e) No adjustment in the number or kind of securities purchasable on the exercise of the Warrants will be made in respect of any issuance or sale of Shares to employees of the Company under any share ownership plan or stock option plan for employees and other Persons approved by the Board.
 - (f) If the Company sets a record date to determine holders of Shares for the purpose of entitling such holders to receive any dividend or distribution or any subscription or purchase rights and will thereafter and before the distribution to such holders of any such dividend, distribution or subscription or purchase rights legally abandon its plan to pay or deliver such dividend, distribution or subscription or purchase rights, no adjustment in the Exercise Price or the number of Shares purchasable upon the exercise of the Warrants will be required by reason of the setting of such record date.
 - (g) In any case in which this Warrant Certificate requires that an adjustment become effective immediately after a record date for an event referred to in Section 4(1) hereof, the Company may defer, until the occurrence of such event:
 - (i) issuing to the Holder, to the extent that the Warrants are exercised after such record date and before the occurrence of such event, the additional Shares issuable upon such exercise by reason of the adjustment required by such event; and
 - (ii) delivering to the Holder any distribution declared with respect to such additional Shares after such record date and before such event;

provided, however, that the Company delivers to the Holder an appropriate instrument evidencing the right of the Holder, upon the occurrence of the event requiring the adjustment, to an adjustment in the number of Shares purchasable upon the exercise of the Warrants.

- (h) If a dispute arises at any time with respect to any adjustment in the number of Shares purchasable pursuant to this Warrant Certificate, such dispute will be conclusively determined by the auditors of the Company or if they are unable or unwilling to act by such other firm of independent chartered accountants as may be selected by the directors, acting reasonably.
 - (i) Adjustments to the number of Shares purchasable pursuant to this Warrant Certificate may be subject to the prior approval of any stock exchange on which the Shares are listed at the time of such adjustment.
- (5) Taking of Actions. As a condition precedent to the taking of any action which would require an adjustment pursuant to Section 4(1) hereof the Company will take any action which may, in the opinion of the Company's legal counsel, be necessary in order that the Company may validly and legally issue as fully paid and non-assessable Shares all of the Shares which the Holder is entitled to receive in accordance with the provisions of this Warrant Certificate.
- (6) Notice. At least twenty-one days prior to any record date or effective date, as the case may be, for any event which requires or might require an adjustment in any of the rights of the Holder under this Warrant Certificate, including the number of Shares which are purchasable under this Warrant Certificate, the Company will deliver to the Holder, at the Holder's registered address, a certificate of the Company specifying the particulars of such event and, if determinable, the required adjustment and the calculation of such adjustment. In case any adjustment for which a notice in this Section 4(6) has been given is not then determinable, the Company will promptly after such adjustment is determinable deliver to the Holder, at the Holder's registered address, a certificate providing the calculation of such adjustment. The Company hereby covenants and agrees that the register of transfers and Share transfer books for the Shares will be open, and that the Company will not take any action which might deprive the Holder of the opportunity of exercising the rights of subscription contained in this Warrant Certificate, during such twenty-one day period.

Section 5 Covenants and Representations

- (1) Covenants of the Company. The Company hereby represents and warrants that it is authorized to create and issue the Warrants and covenants and agrees that it will cause the Shares from time to time subscribed for and purchased in the manner provided in this Warrant Certificate and the certificate representing such Shares to be issued and that, if at any time it has a limitation on the number of Shares that may be issued, it will, at all times thereafter and prior to the Time of Expiry, reserve and there will remain unissued a sufficient number of Shares to satisfy the right of purchase provided for in this Warrant Certificate. All Shares which are issued upon the exercise of the right of purchase provided in this Warrant Certificate, upon payment therefor of the amount at which such Shares may be purchased pursuant to the provisions of this Warrant Certificate, shall be and be deemed to be fully paid and non-assessable Shares and free from all taxes, liens and charges with respect to the issue thereof. The Company hereby represents and warrants that this Warrant Certificate is a valid and enforceable obligation of the Company, enforceable in accordance with the provisions of this Warrant Certificate.
- (2) Covenants of the Holder. By the Holder's acceptance of this Warrant Certificate (defined below), the Holder acknowledges and agrees to take all such actions as are within its power to control and use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with each of the covenants described in this Section 5(2).
- (a) [NTD: The following will be inserted in the Warrants for Class B Shares only.] In the event that prior to the completion of an IPO, the Holder exercises any Warrants for Class B Shares, the Holder hereby covenants and agrees that (i) it will not elect to convert, or request the Company to convert, any or all of such Class B Shares into Common Shares (as such Class B Shares may be converted in accordance with the share provisions thereof), and (ii)

notwithstanding the constating documents of the Company, the Company may refuse to issue and deliver Common Shares in respect of any request by the Holder to convert such Class B Shares into Common Shares. Notwithstanding the foregoing, in the event that a Change of Control has been approved by the requisite majority of the holders of Shares, then the Holder will be allowed to conditionally exchange his/her/its Class B Shares into Common Shares in order to participate or tender his/her/its Shares into the Change of Control transaction, provided that (i) from the period commencing on the date of exchange until the closing date of the Change of Control transaction, the Holder cannot vote the Common Shares so exchanged in any way; and (ii) in the event the Change of Control transaction is not completed for any reason, then the Holder will be treated as a holder of Class B Shares and not a holder of Common Shares, and such exchange shall be deemed not to have occurred.

- (b) In the event that (i) Holder exercises any Warrants for [Common Shares or Class B Shares], and (ii) upon an IPO, the Company reclassifies or redesignates the [Common Shares or Class B Shares], or offers to the public Shares that are not the [Common Shares or Class B Shares], and the Holder receives written notice of such reclassification, redesignation or offering, the Holder hereby covenants and agrees it shall surrender the certificates representing the [Common Shares or Class B Shares] held by it at the head office of the Company on or prior to the IPO Date, accompanied by a written instrument agreeing to exchange such [Common Shares or Class B Shares] for Shares (that are of the same class as the IPO Shares) in form satisfactory to the Company duly executed by the registered holder of the [Common Shares or Class B Shares] or its attorney duly authorized in writing. As promptly as practical after the surrender of such [Common Shares or Class B Shares], the Company shall issue and deliver, or cause to be delivered, to the registered holder of the [Common Shares or Class B Shares] so surrendered, a certificate (or certificates) issued in the name of such holder representing the number of Shares (that are of the same class as the IPO Shares) that is equal to the number of [Common Shares or Class B Shares] surrendered, subject to the application of the Anti-Dilution Protection provisions contained in Section 4 hereof *mutatis mutandis*. In the event that the Holder fails to exchange such [Common Shares or Class B Shares], the Holder irrevocably constitutes and appoints the Company as the true and lawful attorney of the Holder to act for and in the name of the Holder, with full power of substitution, to execute and deliver such documents, instruments or agreements and do all acts and things necessary to effect the exchange as herein provided.
- (c) [NTD: The following will be inserted in the Warrants for Class B Shares only.] In the event that prior to the completion of an IPO, the Holder exercises any Warrants for Class B Shares and converts such Class B Shares for Common Shares in violation of Section 5(2)(a), the Holder hereby irrevocably constitutes and appoints DAVE Investments as the true and lawful attorney of the Holder to act for and in the name of the Holder, with full power of substitution, to vote such Common Shares at any meeting of shareholders of the Company, to sign any written resolution of shareholders, or to exercise any other voting rights attached to such Common Shares, in the sole discretion of DAVE Investments, without consultation with the Holder. The power of attorney provided in this Section 5(2)(c) shall expire and no longer be effective upon the completion of an IPO. This power of attorney is irrevocable, is coupled with an interest and has been given for valuable consideration, the receipt and adequacy of which is acknowledged. This power of attorney and other rights and privileges granted under this Section 5(2)(c) will survive any legal or mental incapacity, dissolution, bankruptcy or death of the Holder. This power of attorney extends to the heirs, executors, administrators, other legal representatives and successors, transferees and assigns of the Holder. Any person dealing with DAVE Investments may conclusively presume and rely upon the fact that any document, instrument or agreement executed by DAVE Investments pursuant to this power of attorney is authorized and binding on the Holder, without further inquiry. The Holder agrees to be bound by any representations or actions made or taken by DAVE Investments pursuant to this power of attorney, and waives any and all defences that may be available to contest, negate or disaffirm any action of DAVE Investments taken in good faith under this power of attorney;

- (d) Prior to the completion of an IPO, the Holder hereby covenants and agrees that it will not transfer any Shares acquired by it, whether pursuant to the exercise of any Warrants or otherwise, if such transfer of Shares would or would reasonably be expected to result in (i) in respect of the Company, a breach of Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada), (ii) a breach of applicable Laws (including Applicable Securities Laws); or (iii) a violation of the constating documents of the Company;
- (e) In the event that prior to the completion of an IPO the Holder transfers any Shares to a transferee permitted pursuant to Section 5(2)(d), the Holder covenants and agrees that no such transfer shall be valid unless and until such transferee complies with the reasonable requests of the Company, including executing an acknowledgement (in form satisfactory to the Company, acting reasonably) pursuant to which the transferee agrees to be bound by the Holders' covenants contained in this Section 5(2) as if it were the original holder of the Warrant Certificate, and provides evidence satisfactory to the Company, acting reasonably, that it has complied with the transfer restrictions set out in Section 5(2)(d); and
- (f) [NTD: Insert the following in the Warrants for Common Shares.] The Holder acknowledges that as of the date this Warrant Certificate was issued, the Company has issued the maximum number of Common Shares permitted under its constating documents to be issued to persons that are not "Canadian" within the meaning of Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada), and as such, should a transferee of Common Shares be a person that is not as such "Canadian", such transferee would be required (in accordance with the Company's constating documents) to exchange such Common Shares for Class B Shares (provided no increase to the number of holders of Shares who are as such "Canadian").

Section 6 Expiry Date.

The Warrants will expire and all rights to purchase Shares hereunder will cease and become null and void at and after the Time of Expiry. At and after the Time of Expiry, no Holder of a Warrant Certificate representing a Warrant will have any further rights to acquire Shares, and the Warrants will be of no value or effect.

Section 7 No Fractional Shares.

The Company will not be required to issue fractional Shares in satisfaction of its obligations hereunder. If any fractional interest in a Share would be deliverable upon the exercise of a Warrant, the Company will, at its option, in its sole discretion, (i) satisfy the right to receive such fractional interest by payment to the Holder of an amount in cash equal (computed in the case of a fraction of a cent to the next lower cent) to the value of the right to acquire such fractional interest on the Exercise Date, or (ii) issue to the Holder one whole Share in lieu of such fractional interest.

Section 8 Transfer of Warrants.

- (1) The Company will keep at its head office a register (the "Register"): (i) in which will be entered the names and addresses of the Holders of the Warrants and particulars of the Warrants; and (ii) in which all transfers of the Warrants and the date and other particulars of each transfer will be entered. This Register will at all reasonable times be open for inspection by the Holder.
- (2) Upon five (5) Business Days prior written notice to the Company (or such shorter notice as the Company may consent to), the Holder may have all or part of the Warrants transferred to any Person at the place at which the register of transfers is kept pursuant to the provisions of this Section 8, provided that the transferee must agree to be bound by the Holder's covenants contained in Section 5(2) herein. The Warrants may only be transferred in accordance with applicable Laws including Applicable Securities Laws and the Canadian Telecommunications Common Carrier Ownership and Control

Regulations promulgated pursuant to the *Telecommunications Act* (Canada), and upon compliance with the conditions herein, by the Holder or its legal representative or its attorney duly appointed by an instrument in writing, in form and execution satisfactory to the Company, upon compliance with such reasonable requirements as the Company may prescribe, which may include the provision of an opinion of counsel to the Company or the Holder to the effect that the securities laws of the applicable jurisdiction(s) have been complied with in relation to the transfer of the Warrants, and will be valid only if entered on the register of transfers kept at the office of the Company. Upon execution by the Holder and its transferee of the transfer form attached to the Warrants as Schedule 8(2), and surrender of the Warrants, and upon compliance with the reasonable requirements as the Company has prescribed such transfer will be duly noted on the Register by the Company. The Holder and the successive respective holders of such Warrant Certificate (and not the Company) shall be solely responsible for ensuring compliance with the requirements and restrictions set out herein in respect of the transfer of the Warrant Certificate. Any transfer in violation of, or not in compliance with, this Section 8(2) shall be deemed to not have occurred, and the Company shall not be affected or bound by any such transfer or required to record such transfer on the Register. In the event that the Warrants becomes subject to transfer in part only, upon surrender of such Warrant Certificate, the Company shall execute and deliver without charge to the Holder and its transferee, as applicable, two or more certificates representing the Warrants. Any new Warrant Certificate issued to a transferee will bear such restrictive or other legends as may be advised by counsel to the Company.

- (3) The Company may treat the registered holder of the Warrants as the absolute holder and owner thereof for all purposes and the Company will not be affected or bound by any notice to the contrary, except where the Company is required to take notice by statute or by order of a court of competent jurisdiction. Subject to any applicable Laws to the contrary, the Company will not be bound to take notice of or see to the execution of any trust, whether express, implied or constructive, in respect of the Warrants, and may transfer the Warrants on the direction of the Holder, whether named as trustee or otherwise, as though that Person were the beneficial holder of the Warrants.

Section 9 Replacement.

Upon receipt of evidence satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant Certificate and, if requested by the Company, upon delivery of a bond of indemnity satisfactory to the Company (or, in the case of mutilation, upon surrender of this Warrant Certificate), the Company will issue to the Holder a replacement certificate (containing the same terms and conditions as this Warrant Certificate).

Section 10 Amendments.

This Warrant Certificate is one of a series of warrant certificates issued by the Company (the "Warrant Certificates"). The Warrant Certificates may be amended with the consent of the holders of at least two-thirds of the aggregate principal amount of all the Warrant Certificates of this series, in which case such amendments shall be binding on the Holder with or without its consent. The consent of the holders of at least two-thirds of the aggregate principal amount of all the Warrant Certificates may be obtained in writing or at a meeting, where at least 25% of the aggregate principal amount of all Warrants outstanding are present in person or represented by proxy.

Section 11. Shareholder Status.

The holding of the Warrants evidenced by this Warrant Certificate will not constitute the Holder a shareholder of the Company or entitle the Holder to any right or interest in respect thereof except as expressly provided in this Warrant Certificate.

Section 12. Successors.

This Warrant Certificate will enure to the benefit of and will be binding upon the Holder and the Company and their respective successors.

Section 13. Governing Law.

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This Warrant Certificate will be construed in accordance with the Laws of the Province of Ontario and the federal Laws of Canada applicable therein and will be treated in all respects as an Ontario contract.

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

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IN WITNESS WHEREOF the Company has caused this Warrant Certificate to be signed by its duly authorized officer.

DATED as of the _____ day of _____, 20____.

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC.**

By: _____
Authorized Signing Officer

SCHEDULE 1

DEFINED TERMS

"Affiliate" or "affiliate" means, unless otherwise specified, an affiliate within the meaning of Section 1.2 of National Instrument 45-106 – *Prospectus and Registration Exemptions*.

"Applicable Securities Laws" means the *Securities Act* (Ontario) and all other applicable Canadian securities Laws.

"Board" means the board of directors of the Company.

"Business Day" means any day of the year, other than a Saturday, a Sunday or any day on which banks are required or authorized to close in Toronto, Ontario.

"Change of Control" means a sale or other disposition of all or substantially all of the equity or assets of the Company to a Person or group of Persons (acting in concert) other than DAVE Investments and Quadrangle.

"Capital Reorganization" has the meaning specified in Section 4(1)(e).

"Class B Shares" means non-voting participating Class B shares of the Company.

"Closing Price" means on any Trading Day, the reported last sale price per Share (or if no last sale price is reported, the average of the bid and ask prices per Share or, if more than one in either case, the average of the average bid and the average ask prices per Share) on such date reported by the Recognized Stock Exchange, or if no such prices are available, the Closing Price shall be the fair value of a Share as reasonably determined by such nationally recognized independent investment banking firm as may be selected by the Board of Directors of the Company in its sole discretion (which determination shall be conclusive and shall be evidenced by an officers' certificate delivered to the Board of Directors).

"Common Shares" means common shares of the Company.

"Company" means Data & Audio-Visual Enterprises Holdings Inc., a corporation organized under the Laws of Ontario.

"Current Market Price" in respect of a Share at any date, means the volume weighted average price per Share for the 20 consecutive trading days ending on the fifth trading day before such date on the Toronto Stock Exchange or, if the Shares are not then listed on the Toronto Stock Exchange, then on such other stock exchange on which the Shares are then listed as may be selected by the Company's Board of Directors or, if the Shares are not then listed on a stock exchange, on the over-the-counter market; the volume weighted average price shall be determined by dividing the aggregate of the sales prices of all such Shares sold on such exchange or market, as the case may be, during the said 20 consecutive trading days by the total number of Shares so sold; provided that, if the Shares are not listed on a stock exchange and there is no market for the Shares during all or part of such period during which the Current Market Price thereof would otherwise be determined, the Current Market Price in respect of a Share shall in respect of all or such part of the period be determined by such nationally recognized independent investment banking firm as may be selected by the Company's Board of Directors, in its sole discretion, acting reasonably.

"DAVE Investments" means Data & Audio-Visual Enterprises Investments Inc. and any of its Affiliates.

"Distribution" has the meaning specified in Section 4(1)(g).

"Exercise Date" has the meaning specified in Section 3(2).

"Exercise Price" has the meaning specified on the first page of the Warrant Certificate.

"Expiration Date" has the meaning specified in Section 4(3).

"Expiration Time" has the meaning specified in Section 4(3).

"Governmental Entity" means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any court and any government agency, board, commission, tribunal or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.

"Holder" means the holder of the Warrants represented by this Warrant Certificate.

"IPO" means (i) the first registration or qualification of equity or equity-like securities of the Company or any of its Subsidiaries under a prospectus, for which a final receipt has been granted by the applicable securities regulatory authority, (ii) any transaction or series of transaction, involving an acquisition by the Company (or any Subsidiary) or of the Company (or any Subsidiary), and an equity or equity-like security issuance by the Company or such Subsidiary, that results in the Company or such Subsidiary becoming a reporting issuer (as such term is defined in Applicable Securities Laws) in Canada, or the equivalent in a foreign jurisdiction.

"IPO Shares" means shares that are sold or issued to the public pursuant to the IPO, on the basis that as of the date hereof one IPO Share would be one Class B Share, and if there is a Capital Reorganization or a Distribution after the date hereof and on or prior to the IPO, then such ratio would be adjusted in accordance with Section 4 of this Agreement.

"Laws" means applicable (i) Laws, constitutions, treaties, statutes, codes, ordinances, statutory rules, principles of common and civil Law and equity, terms and conditions of any grant of approval, permission, orders, decrees, rules, regulations and municipal by-Laws, whether domestic, foreign or international; (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, rulings, authority, licence, decrees and awards of any Governmental Entity (including the Securities Regulatory Authorities); and (iii) policies, practices and guidelines of any Governmental Entity (including the Securities Regulatory Authorities), which, although not actually having the force of Law, are considered by such Governmental Entity as requiring compliance as if having the force of Law, in each case binding on or affecting the Person, or the assets of the Person, referred to in the context in which such word is used, and the term "applicable" with respect to such Laws and in the context that refers to one or more Persons, means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Governmental Entity (including the Securities Regulatory Authorities) having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities, in each case as such Laws may be amended from time to time.

"Licensee" means Data & Audio-Visual Enterprises Wireless Inc., the licensee of certain spectrum from Industry Canada, or any assignee of such licensee which is an Affiliate of the Company.

"Person" means a natural person, partnership, limited partnership, limited liability partnership, limited liability company, unlimited liability company, corporation, joint stock company, trust, unincorporated association, joint venture or other entity or Governmental Entity, and pronouns have a similarly extended meaning.

"Purchased Shares" has the meaning specified in Section 4(3).

"Quadrangle" means QCP CW S.A.R.L and any of its Affiliates.

"Recognized Stock Exchange" means the Toronto Stock Exchange or if the Shares are not listed on the Toronto Stock Exchange, any other stock exchange on which the Shares are then listed and posted for trading.

"Rights" has the meaning specified in Section 4(2).

"Rights Plan" has the meaning specified in Section 4(2).

"Securities Regulatory Authorities" means collectively, the provincial and territorial securities regulatory authority in each of the provinces and territories of Canada, and the Toronto Stock Exchange.

"Share" means a [Common Share or Class B Share] and/or a Share that is of the same class as an IPO Share, as the context requires.

"Share Rate" means, at any time, the number of Shares, as applicable, which are issuable upon the exercise of the Warrants, subject to adjustment in accordance with Article 4, such number being currently equal to one [Common Share or Class B Share] per Warrant.

"Subsidiary" means any Person controlled, directly or indirectly, by the Company.

"Time of Expiry" has the meaning specified on the first page of the Warrant Certificate, or as it may be accelerated in accordance with the terms contained herein.

"Trading Day" means, with respect to any Recognized Stock Exchange or any other market for securities, any day on which such exchange or market is open for trading or quotation.

"U.S. Securities Act" has the meaning specified in Section 3(4).

"Warrant" means the warrants issued by the Company to the Holder.

"Warrant Certificates" has the meaning specified in Section 10.

**SCHEDULE 3(1)
ELECTION TO EXERCISE**

The undersigned hereby irrevocably elects to exercise the number of Warrants of Data & Audio-Visual Enterprises Holdings Inc. (the "Company") set out below for the number of Shares (or other property or securities subject thereto) as set forth below:

- (a) Number of Warrants to be Exercised: _____
- (b) Number of Shares to be Acquired: _____
- (c) Exercise Price per Warrant: \$12.00
- (d) Aggregate Purchase Price [(b) multiplied by (c)]: \$ _____

and hereby tenders a certified cheque, bank draft or cash for such aggregate purchase price, and directs such Shares to be registered and a certificate therefor to be issued as directed below.

The undersigned represents, warrants and certifies as follows (one (only) of the following must be checked):

- ☐ A. The undersigned holder (i) at the time of exercise of the Warrants is not in the United States; (ii) is not a "U.S. person" as defined in Regulation S under the United States Securities Act of 1933, as amended (the "U.S. Securities Act"), and is not exercising the Warrants on behalf of a "U.S. person"; and (iii) did not execute or deliver this exercise form in the United States.
- ☐ B. The undersigned holder has delivered to the Company an opinion of counsel (which will not be sufficient unless it is from counsel of recognized standing and in form and substance satisfactory to the Company) to the effect that an exemption from the registration requirements of the U.S. Securities Act and applicable state securities Laws is available.
- ☐ C. The undersigned holder, to the extent the undersigned holder exercising the Warrants represented hereby is the original registered holder of the Warrants, has confirmed, at the time of exercise of the Warrants, its status as an "accredited investor", as defined in Rule 501(a) of Regulation D under the U.S. Securities Act.

Note: Certificates will not be registered or delivered to an address in the United States unless Box B above is checked.

Note: If Box B is to be checked, holders are encouraged to consult with the Company in advance to determine that the legal opinion tendered in connection with exercise will be satisfactory in form and substance to the Company.

DATED this _____ day of _____, 20____.

Per: _____

Direction as to Registration of Shares

Name of Registered Holder:

Address of Registered Holder:

EXHIBIT 8(2)
WARRANT TRANSFER FORM

Certificate No. ●

● Warrants

Transfer No. ●

TRANSFER OF WARRANTS

[name of transferor] sells, assigns and transfers to [name of transferee] [number of Warrants] Warrants that were issued by Data & Audio-Visual Enterprises Holdings Inc. (the "Company") to [name of transferor]. [name of transferor] acknowledges receipt of good and valuable consideration for the sale, assignment and transfer of the Warrants and the sufficiency of such consideration. [name of transferee] acknowledges that it is bound by the terms and conditions of the Warrant Certificate.

[name of transferee] further acknowledges and agrees, for the benefit of the Company, to be bound by the [name of transferor]'s covenants contained in the Warrant Certificate as if [name of transferee] were an original holder thereof.

Capitalized terms used herein but not otherwise defined shall have the meaning ascribed thereto in the Warrant Certificate.

[NAME OF TRANSFEROR]

By: _____

Name:

Title:

[NAME OF TRANSFEE]

By: _____

Name:

Title:

Appendix "A"

Excerpt from Section 2 of the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the Telecommunications Act (Canada):

"Canadian" means

- (a) a citizen within the meaning of subsection 2(1) of the Citizenship Act who is ordinarily resident in Canada,
- (b) a permanent resident within the meaning of subsection 2(1) of the Immigration Act who is ordinarily resident in Canada, and has been ordinarily resident in Canada for not more than one year after the date on which that person first became eligible to apply for Canadian citizenship,
- (c) a Canadian government, whether federal, provincial or local, or an agency thereof,
- (d) a corporation without share capital, where a majority of its directors or officers, as the case may be, are appointed or designated, either by their personal names or by their names of office, by one or more of
 - (i) a federal or provincial statute or regulations made under a federal or provincial statute,
 - (ii) the Governor in Council or the lieutenant governor in Council of a province, or
 - (iii) a minister of the Crown in right of Canada or of a province,
- (e) a qualified corporation,
- (f) a qualified trust
- (g) a qualified mutual insurance company,
- (h) a qualified partnership, or
- (i) a qualified pension fund society. (Canadian)

"qualified corporation" means a corporation in which those of its shareholders who are Canadians beneficially own, and control, in the aggregate and otherwise than by way of security only, not less than 66-2/3 per cent of the issued and outstanding voting shares, and which is not otherwise controlled by non-Canadians; (personne morale qualifiée)

"qualified mutual insurance company" means a mutual insurance company the head office and principal place of business of which are in Canada, and not less than 80 per cent of the board and of each committee of its directors of which are individual Canadians; (société mutuelle d'assurance qualifiée)

"qualified partnership" means a partnership in which those of its partners who are Canadians beneficially own, and control, in the aggregate and otherwise than by way of security only, not less than 66-2/3 per cent of the beneficial interest in the partnership, and which is not otherwise controlled by non-Canadians; (société de personnes qualifiée)

"qualified pension fund society" means a pension fund society the majority of whose members of its board of directors are individual Canadians, and that is established under An Act to Incorporate the Pension Fund Society of the Dominion Bank, S.C. 1887, c. 55; S.C. 1956, c. 66, An Act to Incorporate the Pension Fund Society of the Bank of Montreal, S.C. 1885, c. 13, the Pension Fund Society Act or any provincial legislation relating to the establishment of pension fund societies; (société de caisse de retraite qualifiée)

"qualified trust" means a trust in which Canadians have not less than 66-2/3 per cent of the beneficial interest, and of which majority of the trustees are Canadians; (fiducie qualifiée)

SCHEDULE "D"
TO THE COMPANY INDENTURE BETWEEN
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. AND
EQUITY FINANCIAL TRUST COMPANY
FORM OF DECLARATION FOR REMOVAL OF LEGEND

SCHEDULE "D"

FORM OF DECLARATION FOR REMOVAL OF LEGEND

TO: Equity Financial Trust Company, as trustee and registrar of the Series 2009 15.0% Senior Unsecured Debentures due September 25, 2018, and

TO: The Registrar and Transfer Agent of the Shares of Data & Audio-Visual Enterprises Holdings Inc.

The undersigned (a) acknowledges that the sale of the securities of Data & Audio-Visual Enterprises Holdings Inc. (the "Company") to which this declaration relates is being made in reliance on Rule 904 of Regulation S under the *United States Securities Act of 1933*, as amended (the "1933 Act") and (b) certifies that (1) it is not an affiliate of the Company (as defined in Rule 405 under the 1933 Act), (2) the offer of such securities was not made to a person in the United States, and either (A) at the time the buy order was originated, the buyer was outside the United States, or the seller and any person acting on its behalf reasonably believe that the buyer was outside the United States, or (B) the transaction was executed on or through the facilities of the Toronto Stock Exchange and neither the seller nor any person acting on its behalf knows that the transaction has been prearranged with a buyer in the United States, (3) neither the seller nor any affiliate of the seller nor any person acting on any of their behalf has engaged or will engage in any directed selling efforts in the United States in connection with the offer and sale of such securities, (4) the sale is bona fide and not for the purpose of "washing off" the resale restrictions imposed because the securities are "restricted securities" (as such term is defined in Rule 144(a)(3) under the 1933 Act), (5) the seller does not intend to replace the securities sold in reliance on Rule 904 of the 1933 Act with fungible unrestricted securities, and (6) the contemplated sale is not a transaction, or part of a series of transactions which, although in technical compliance with Regulation S, is part of a plan or scheme to evade the registration provisions of the 1933 Act. Terms used herein have the meanings given to them by Regulation S.

Dated: _____

By: _____

Name: _____

Title: _____

SCHEDULE "E"
TO THE COMPANY INDENTURE BETWEEN
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. AND
EQUITY FINANCIAL TRUST COMPANY
FORM OF SUBORDINATION ACKNOWLEDGEMENT

SCHEDULE "E"

ACKNOWLEDGMENT OF SUBORDINATION

TO: EQUITY FINANCIAL TRUST COMPANY, as collateral agent for the First Lien Senior Secured Notes (defined below) (the "Collateral Agent")

FROM: EQUITY FINANCIAL TRUST COMPANY (the "Debenture Trustee")

RE: Subordination of Indebtedness

RECITALS:

A. Data & Audio Visual Enterprises Holdings Inc. (the "Company") and the Debenture Trustee entered into an amended and restated trust indenture dated April 29, 2011 (the "Trust Indenture") providing for the issuance of an unlimited aggregate principal amount of senior unsecured debentures (the "Debentures") of the Company.

B. The Company and the Collateral Agent, among others, have entered into an indenture (as it may be amended or amended and restated from time to time (the "First Lien Note Indenture") in respect of the issuance of \$195 principal amount first lien senior secured notes ("First Lien Senior Secured Notes").

C. The terms of the Trust Indenture provides that all indebtedness under or relating to the Trust Indenture and/or any of the Debentures (or any renewal, replacement or alternate indebtedness) shall be fully postponed and subordinated and rank behind all indebtedness under or relating to the First Lien Note Indenture to the extent and in the manner provided in the Subordination Provisions (as defined below).

D. Unless otherwise indicated herein, all terms defined or given a particular meaning, interpretation or construction in the First Lien Note Indenture shall have the same meaning, interpretation and/or construction herein.

E. Schedule A to this Agreement sets forth the subordination provisions set out or to be set out in the Trust Indenture (the "Subordination Provisions").

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the sum of \$1.00 of lawful money of Canada now paid by the Collateral Agent to the Debenture Trustee and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the Debenture Trustee), the parties agree with each other as follows:

1. The Debenture Trustee, on behalf of the holders of the Debentures, agrees with and in favour of the Collateral Agent that all indebtedness and all security (if any) and all claims, liabilities and other obligations under or relating to the Trust Indenture and/or any of the Debentures (or any renewal, replacement or alternate indebtedness) held by the holders of the Debentures (and the successive respective holders of the Debentures) shall be fully postponed and subordinated and rank behind, in all respects, all indebtedness and any security and all claims, liabilities and all other obligations under or relating to the First Lien Note Indenture to the extent and in the manner provided in the Subordination Provisions.
2. The Debenture Trustee, on behalf of the holders of the Debentures, acknowledges that all indebtedness under the First Lien Note Indenture is Senior Indebtedness (as such term is defined in the Subordination Provisions, the Trust Indenture and/or any Debenture).
3. The Debenture Trustee, on behalf of the holders of the Debentures, agrees that each instrument issued to evidence any Debenture or indebtedness owing to the holders of the Debentures under the Trust Indenture or any Debenture (or any renewal, replacement or alternate indebtedness) shall provide that it shall be subordinated and postponed to and rank behind, in all respects, all indebtedness under or relating to the First Lien Note Indenture to the extent and in the manner provided in the Subordination Provisions.
4. The Debenture Trustee, on behalf of the holders of the Debentures, agrees that the Collateral Agent shall at all times be entitled to rely on and to enforce all provisions relating to the subordination of any claims,

security, liabilities, indebtedness or other obligations contained in the Subordination Provisions, the Trust Indenture and/or any Debenture and any and all related provisions as if it were a party thereto.

5. The Debenture Trustee, on behalf of the holders of the Debentures, further agrees that it shall not agree on behalf of the holders of the Debentures or on its own behalf to any change, amendment, variation or modification to or of any provision in the Trust Indenture or any Debenture held by the holders of the Debentures (and the successive respective holders of the Debentures) relating to any subordination of any indebtedness without the prior written consent of the Collateral Agent.
6. This Agreement shall continue in full force and effect notwithstanding any extension, renewal, modification, supplement, change, amendment and/or amendment and restatement of the First Lien Note Indenture or any Collateral in connection therewith and/or any release, sale or exchange of any such Security.
7. This Agreement shall be binding upon the undersigned, its administrators, successors and assigns and shall enure to the benefit of the Collateral Agent and each of the holder of First Lien Senior Secured Notes, and each of their respective administrators, successors and assigns.
8. This Agreement, and all matters arising out of or related to this Agreement, shall be governed by, and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable thereto.
9. This Agreement may be executed in counterparts, each of which shall constitute an original but all of which when taken together shall constitute a single contract. Delivery of an executed signature page to this Agreement by facsimile transmission (including email) shall be effective as delivery of a manually signed counterpart of this Agreement.

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DATED this _____ day of _____, 2011.

**EQUITY FINANCIAL TRUST COMPANY, AS
COLLATERAL AGENT**

By: _____
Authorized Signatory

**EQUITY FINANCIAL TRUST COMPANY, AS
DEBENTURE TRUSTEE**

By: _____
Authorized Signatory

By: _____
Authorized Signatory

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SCHEDULE "A"

ARTICLE 5
SUBORDINATION OF DEBENTURES

5.1 Applicability of Article

The indebtedness, liabilities and obligations of the Company hereunder (except as provided in Section 12.15.) or under the Debentures, whether on account of principal, interest or otherwise, (collectively the "Debenture Liabilities"), shall be fully and effectively subordinated and postponed and subject in right of payment, to the extent and in the manner hereinafter set forth in the following sections of this Article 5, to the full and final payment of all Senior Indebtedness of the Company and each holder of any such Debenture by his acceptance thereof agrees to and shall be bound by the provisions of this Article 5.

The Senior Indebtedness shall continue to be Senior Indebtedness and shall be entitled to the benefits of this Article 5 irrespective of any amendment, modification or waiver of any term (other than a release, discharge or other event that results in the applicable Indebtedness no longer being Senior Indebtedness) of such Senior Indebtedness and notwithstanding that no express written subordination agreement may have been entered into between the holders of such Senior Indebtedness and the Debenture Trustee or any of the Debentureholders.

5.2 Order of Payment

In the event of any voluntary or involuntary dissolution, winding-up or liquidation, or any bankruptcy, insolvency, receivership, creditor enforcement or realization or other similar proceedings relating to the Company or any of its property (whether voluntary or involuntary, partial or complete) or any other marshalling of the assets and liabilities of the Company, any reorganization or any sale, distribution or other transfer of all or substantially all of the assets of the Company:

- (a) all Senior Indebtedness shall first be paid in full, or provision made for such payment, before any payment or distribution is made on account of the Debenture Liabilities;
- (b) any payment or distribution of assets of the Company, whether in cash, property or securities, to which the holders of the Debentures or the Debenture Trustee on behalf of such holders would be entitled except for the provisions of this Article 5, shall be paid or delivered by the trustee in bankruptcy, receiver, assignee for the benefit of creditors, or other liquidating agent making such payment or distribution, directly to the holders of Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Senior Indebtedness may have been issued, to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness before any payment or distribution is made to the Debentureholders or the Debenture Trustee; and
- (c) the Senior Creditors or a receiver or a receiver-manager of the Company or of all or part of its assets or any other enforcement agent may sell, mortgage, or otherwise dispose of the Company assets in whole or in part, free and clear of all Debenture Liabilities and without the approval of the Debentureholders or the Debenture Trustee or any requirement to account to the Debenture Trustee or the Debentureholders except in respect of any excess after discharge of all Senior Indebtedness.

The rights and priority of the Senior Indebtedness and the subordination pursuant hereto shall not be affected by:

- (i) the time, sequence or order of creating, granting, executing, delivering of, or registering, perfecting or failing to register or perfect any security notice, caveat, financing statement or other notice in respect of the Senior Security;

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- (ii) the time or order of the attachment, perfection or crystallization of any security constituted by the Senior Security;
- (iii) the taking of any collection, enforcement or realization proceedings pursuant to the Senior Indebtedness;
- (iv) the date of obtaining of any judgment or order of any bankruptcy court or any court administering bankruptcy, insolvency or similar proceedings as to the entitlement of the Senior Creditors, or any of them or the Debentureholders or other Trustee or any of them to any money or property of the Company;
- (v) the failure to exercise any power or remedy reserved to the Senior Creditors under documents evidencing the Senior Indebtedness or under the Senior Security or to insist upon a strict compliance with any terms thereof;
- (vi) whether any Senior Security is now perfected, hereafter ceases to be perfected, is avoidable by any trustee in bankruptcy or like official or is otherwise set aside, invalidated or lapses;
- (vii) the date of giving or failing to give notice to or making demand upon the Company; or
- (viii) any other matter whatsoever.

5.3 Subrogation to Rights of Holders of Senior Indebtedness

Subject to the irrevocable and unconditional prior payment in full of all Senior Indebtedness, the holders of the Debentures shall be subrogated to the rights of the holders of Senior Indebtedness or their representative or representatives, or the trustee or trustees under any indenture pursuant to which any instrument evidencing any such Senior Indebtedness may have been issued, to receive payments or distributions of assets of the Company to the extent of the application thereto of such payments or other assets which would have been received by the holders of the Debentures but for the provisions hereof until the Payment Amount of, and accrued and unpaid interest on, the Debentures shall be paid in full, and no such payments or distributions to the holders of the Debentures of cash, property or securities, which otherwise would be payable or distributable to the holders of the Senior Indebtedness, shall, as between the Company, its creditors other than the holders of Senior Indebtedness, and the holders of Debentures, be deemed to be a payment by the Company to the holders of the Senior Indebtedness or on account of the Senior Indebtedness, it being understood that the provisions of this Article 5 are and are intended solely for the purpose of defining the relative rights of the holders of the Debentures, on the one hand, and the holders of Senior Indebtedness, on the other hand.

The Debenture Trustee, for itself and on behalf of each of the Debentureholders, hereby waives any and all rights to require a Senior Creditor to pursue or exhaust any rights or remedies with respect to the Company or any property and assets subject to the Senior Security or in any other manner to require the marshalling of property, assets or security in connection with the exercise by the Senior Creditors of any rights, remedies or recourses available to them.

5.4 Obligation to Pay Not Impaired

Nothing contained in this Article 5 or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as between the Company, its creditors other than the holders of Senior Indebtedness, and the holders of the Debentures, the obligation of the Company, which is absolute and unconditional, to pay to the holders of the Debentures the aggregate of all Payment Amounts, including unpaid interest on, the Debentures, as and when the same shall become due and payable in accordance with their terms, or affect the relative rights of the holders of the Debentures and creditors of the Company other than the holders of the Senior Indebtedness, nor shall anything herein or therein prevent the Debenture Trustee or the holder of any Debenture from exercising all remedies otherwise permitted by applicable Laws or under this Indenture upon default under this Indenture, subject to the rights, if any, under this Article 5 of the holders of Senior Indebtedness.

5.5 No Payment if Senior Indebtedness in Default

- (a) No payment of any Payment Amount of, or interest (or any other amounts payable) in respect of the Debentures (including the Initial Debentures) or in respect of any Redemption Price or Offer Price in respect of any such Debentures may be made, and neither the Debenture Trustee nor any Debentureholder will be entitled to make demand, accelerate, take any enforcement action of any nature whatsoever, exercise any remedy or institute proceedings (other than as may be necessary to preserve a limitation period) for the collection of, or receive any payment or benefit (including, without limitation, by setoff, combination of accounts or realization of security or otherwise in any manner whatsoever) on account of Indebtedness represented by the Debentures:
 - (i) in a manner inconsistent with the terms (as they exist on the date of issue) of the Debentures;
 - (ii) at any time when an event of default has occurred under Senior Indebtedness, and such event of default is continuing and notice of such event of default has been given by or on behalf of the holders of such Senior Indebtedness to the Company unless and until such Senior Indebtedness has been paid and satisfied in full or such event of default shall have been cured or waived in writing in accordance with the provisions of such Senior Indebtedness; or
 - (iii) if the making of any such payment or the taking of any such action would create (including if by the lapse of time or giving of notice), an event of default under any Senior Indebtedness unless and until such Senior Indebtedness has been satisfied in full or the making of any such payment or taking of such action would no longer create (including if by the lapse of time or giving of notice), an event of default under any Senior Indebtedness.
- (b) If, notwithstanding Section 5.2(b) or 5.5(a), the Debenture Trustee is notified or has actual knowledge (without due inquiry) that it has received payment when such payment should have been paid to the holders of Senior Indebtedness pursuant to Section 5.2(b) or when payment under the Debentures is prohibited by Section 5.5(a), as the case may be, but not otherwise, such payment shall be held in trust for the benefit of, and shall be paid or delivered to, the holders of the Senior Indebtedness or their respective representative or representatives, or to the trustee or trustees under which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Company, to the extent necessary to pay such Senior Indebtedness in full, in cash, after giving effect to any other concurrent payment or distribution to or for the benefit of the holders of such Senior Indebtedness.

5.6 Payment on Debentures Permitted

Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall affect the obligation of the Company to make, or prevent the Company from making, at any time except as prohibited by Section 5.5, any payment of Payment Amount of, or interest on, the Debentures, including as part of any Redemption Price. The fact that any such payment is prohibited by Section 5.5 shall not prevent the failure to make such payment from being an Event of Default hereunder. Except as prohibited by Section 5.5, nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall prevent the application by the Debenture Trustee of any monies deposited with the Debenture Trustee hereunder for the purpose, to the payment of or on account of the Debenture Liabilities.

5.7 Confirmation of Subordination

Each holder of Debentures by his or her acceptance of the Debentures authorizes and directs the Debenture Trustee on his behalf to take such action as may be necessary or appropriate to effect the subordination as provided in this Article 5 and appoints the Debenture Trustee his attorney-in-fact for any and all such purposes (and the successive respective holders of the Debentures by taking and holding the same shall be conclusively deemed to have so appointed the Debenture Trustee). Upon request of the Company, and upon being furnished with an

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Officer's Certificate stating that one or more named Persons are Senior Creditors, or is the representative or representatives of such Senior Creditors, or is the trustee or trustees under which any instrument evidencing such Senior Indebtedness may have been issued, and specifying the amount and nature of the Senior Indebtedness of such Senior Creditor, the Debenture Trustee shall enter into a written agreement or agreements with the Company and the Person or Persons named in such Officer's Certificate to more fully specify the terms and conditions of the subordination set out in the Indenture, or in any of the Debentures. Such agreement shall be conclusive evidence that the Indebtedness specified therein is Senior Indebtedness, provided that nothing therein shall affect the subordination provisions contained herein or impair the rights of any Senior Creditor who has not entered into such an agreement to rely upon and enforce such subordination provisions. In addition, as attorney-in-fact for the Debentureholders (and the successive respective holders of the Debentures) as provided herein, the Debenture Trustee shall have the right, including, without limitation, to execute an acknowledgement of subordination, in the form set out in Schedule "E" hereto or any variations thereof, for the benefit of Senior Creditors from time to time.

5.8 Knowledge of Debenture Trustee

Notwithstanding the provisions of this Article 5 or any provision in this Indenture or in the Debentures, the Debenture Trustee will not be charged with knowledge of any Senior Indebtedness (other than the First Lien Senior Secured Notes) or of any default in the payment thereof, or of the existence of any other fact that would prohibit the making of any payment of monies to or by the Debenture Trustee, or the taking of any other action by the Debenture Trustee, unless and until the Debenture Trustee has received written notice thereof from the Company, any Debentureholder or any Senior Creditor.

5.9 Rights of Debentureholders of Senior Indebtedness Not Impaired

No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any non-compliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

5.10 Altering the Senior Indebtedness

The holders of the Senior Indebtedness have the right to extend, renew, modify, supplement, amend or amend and restate the terms of the Senior Indebtedness or any security therefor and to release, sell or exchange such security and otherwise to deal freely with the Company, all without notice to or consent of the Debentureholders or the Debenture Trustee and without affecting the provisions of this Article 5 or the other liabilities and obligations of the parties to this Indenture or the Debentureholders or the Debenture Trustee.

5.11 Additional Indebtedness

Subject to Section 6.14, this Indenture does not restrict the Company from incurring additional Senior Indebtedness or other Indebtedness for borrowed money (including any Indebtedness ranking subordinated *pari passu* with any Debentures) or otherwise or mortgaging, pledging or charging its properties to secure any Indebtedness. Subject to Section 6.14, neither this Indenture nor any Debenture restricts any Subsidiary of the Company from incurring any Indebtedness, whether secured or unsecured, or whether senior or subordinated.

5.12 Invalidated Payments

In the event that any of the Senior Indebtedness shall be paid in full and subsequently, for whatever reason, such formerly paid or satisfied Senior Indebtedness becomes unpaid or unsatisfied, the terms and conditions of this Article 5 shall be reinstated and the provisions of this Article 5 shall again be operative until all Senior Indebtedness is repaid in full, provided that such reinstatement shall not give the Senior Creditors any rights or recourses against the Debenture Trustee or the Debentureholders for amounts paid to the Debentureholders more than 2 years following payment to the Debentureholder.

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5.13 Contesting Security

The Debenture Trustee, for itself and on behalf of the Debentureholders, agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Security or Senior Indebtedness, or the relative priority of the Senior Security or Senior Indebtedness.

SUPPLEMENTAL INDENTURE

THIS SUPPLEMENTAL INDENTURE is made as of February 6, 2013

BETWEEN:

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC., a corporation incorporated under the laws of the Province of Ontario

(including its successors and assigns, "**Holdings**")

- and -

EQUITY FINANCIAL TRUST COMPANY, a trust company existing under the federal laws of Canada, in its capacity as trustee under the Senior Secured Indenture (as defined below) on its own behalf and on behalf of the holders of Debentures (as defined below)

(In such capacity, the "**Debenture Trustee**")

RECITALS:

- A. Holdings and the Debenture Trustee entered into a Trust Indenture amended and restated as of the 29th day of April, 2011 (the "**Unsecured Indenture**") under which certain 15.0% Senior Unsecured Debentures were issued (the "**Debentures**").
- B. Holdings and its Subsidiaries wish to effect the issuance of certain new 15.5% Second Lien Notes (the "**New Notes**") to be issued pursuant to a Note Purchase Agreement (the "**Note Purchase Agreement**") made between Holdings, certain of its Subsidiaries, and the purchasers of the New Notes, and to effect amendments consequential to the foregoing.
- C. To permit the issuance of the New Notes certain amendments are required to be made to the Unsecured Indenture.
- D. Pursuant to resolutions of the Board of Directors of the Corporation, certified copies of which have been delivered to the Debenture Trustee, the Corporation has duly authorized the execution and delivery of this first supplemental indenture to the Unsecured Indenture (the "**Supplemental Indenture**").
- E. The Debenture Trustee has received the requisite consents of the Holders to effect the amendments and the Supplemental Indenture.
- F. All other acts, things and proceedings required by law and by the amended and restated certificate of incorporation and bylaws (or other constating documents) of the Corporation necessary to make this Supplemental Indenture a valid agreement of the Corporation according to its terms have been done and preformed.
- G. The foregoing recitals are made as representations and statements of fact by Holdings and not by the Debenture Trustee.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each party hereto, it is hereby covenanted, agreed and declared as follows:

INTERPRETATION

1 Definitions

All capitalized terms not defined herein shall have the meanings given to them in the Unsecured Indenture and in the Debentures.

1.1 Interpretation

- (a) This Supplemental Indenture is supplemental to the Unsecured Indenture and this Supplemental Indenture shall hereafter be read together and shall have effect, so far as practicable, with respect to the Debentures as if all the provisions of the Unsecured Indenture and this Supplemental Indenture were contained in one instrument. The Unsecured Indenture is and shall remain in full force and effect with regards to all matters governing the Debentures, as amended by this Supplemental Indenture.
- (b) In this Supplemental Indenture:
 - i. words importing the singular number or masculine gender shall include the plural number or the feminine or neuter genders, and vice versa;
 - ii. all references to Articles, Sections and Schedules refer, unless otherwise specified, to articles and sections of and schedules to this Supplemental Indenture; and
 - iii. words and terms denoting inclusiveness (such as "include" or "includes" or "including"), whether or not so stated, are not limited by and do not imply limitation of their context or the words or phrases which precede or succeed them.

2 Amendments to the Unsecured Indenture

- (a) As of and from the date that any of the New Notes are first issued, the Unsecured Indenture shall be amended as follows:
 - i. by amending subsection 6.14 to include a new paragraph (e), which shall state:

“(e) Nothing in this Indenture prevents the Company nor a Subsidiary of the Company from incurring any Indebtedness under: (I) a Note Purchase, Guarantee and Backstop Agreement dated as of February 6, 2013, and the 15.5% Second Lien Notes issued thereunder by the Company or any of its Subsidiaries in the principal amount of \$43.25 million (plus interest, fees, costs and other amounts owing thereunder, including the Excess Amount) and the Liquidity Payment (as defined therein); or (II) any guarantees associated therewith ((I) and (II), collectively, the “New Notes Indebtedness”). Further, nothing in this Indenture prevents

the Company nor a Subsidiary from creating any Liens to secure the New Notes Indebtedness."

GENERAL PROVISIONS

Confirmation of Unsecured Indenture

The Unsecured Indenture, as amended by this Supplemental Indenture shall be and continue in full force and effect and is in all respects hereby confirmed. The Debentures shall continue in full force and effect as originally issued pursuant to the Unsecured Indenture, except as amended hereunder, and are in all respect hereby confirmed.

On and after the date hereof, in the Unsecured Indenture and the Debentures (other than this Supplemental Indenture), any reference to (A) the Unsecured Indenture, by any name or defined term, shall be construed as a reference to the Unsecured Indenture as amended and supplemented by this Supplemental Indenture; and (B) the Debentures, by any name or defined term, shall be construed as a reference to the Debentures as amended and supplemented by this Supplemental Indenture.

Governing Laws

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

Further Assurances

The parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the transactions contemplated by this Supplemental Indenture, and each party shall provide such further documents or instruments required by the other party as may be reasonably necessary or desirable to effect the purpose of this Supplemental Indenture and carry out its provisions.

Acceptance of Trust

The Debenture Trustee has received a debentureholder extraordinary resolution dated February 6, 2013 signed by the Required Holders of Record (as defined therein) on behalf of the Debentureholder (as defined therein), approving, inter alia, this Supplemental Indenture (the "**Extraordinary Resolutions**"). The Debenture Trustee has also received a confirmation letter from counsel to the Required Beneficial Holders (as defined in the Extraordinary Resolutions), dated February 6, 2013, and noteholder statements dated on or before February 6, 2013 signed by each Required Beneficial Holder associated with such Extraordinary Resolutions (collectively, the "**Associated Documents**"). The Debenture Trustee confirms that the Associated Documents constitute evidence satisfactory that the Extraordinary Resolution is signed by the holders of 66 2/3% of the Payment Amount of all the Debentures outstanding as of January 31, 2013, as contemplated by Section 10.15 of the Unsecured Indenture.

The Debenture Trustee accepts the trusts in this Supplemental Indenture declared and provided for and agrees to execute the trust created by the Unsecured Indenture as hereby amended, but only upon the terms and conditions set forth in the Unsecured Indenture, including the terms and provisions defining and limiting the liabilities and responsibilities of the Debenture Trustee, and without limiting the generality of the foregoing, the Debenture Trustee shall not be responsible in any manner whatsoever for or with respect to any of the recitals contained herein, all of which recitals are made solely by the Company, or for or with respect to (i) the validity or

sufficiency of this Supplemental Indenture or any of the terms or provisions hereof, (ii) the proper authorization hereof by the Company by corporate action or otherwise, (iii) the due execution hereof by the Company, and (iv) the consequences (direct or indirect and whether deliberate or inadvertent) of any amendment herein provided for, and the Debenture Trustee makes no representation with respect to any such matters.

Counterparts

This Supplemental Indenture may be simultaneously executed in several counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the parties hereto have executed this Supplemental Indenture as of the date first written above.

**DATA AND AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as issuer**

By: 
Name: Steven H. Lyons
Title: President

EQUITY FINANCIAL TRUST COMPANY, as
Trustee

By: 
Name: Kathy Thorpe
Title: Senior Trust Officer

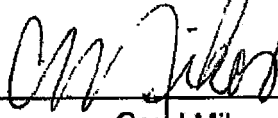
By: 
Name: Carol Mikos
Title: Senior Advisor Trust Service

Exhibit “F”

Execution Version

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

and

QCP CW S.A.R.L.

and

DATA & AUDIO-VISUAL ENTERPRISES INVESTMENTS INC.

SECOND AMENDED AND RESTATED COMMITMENT AGREEMENTApril 29, 2011

This is Exhibit F referred to in the
affidavit of William Aziz
sworn before me, this 29th
day of September 2013
[Signature]
A COMMISSIONER FOR TAKING AFFIDAVITS

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SECOND AMENDED AND RESTATED COMMITMENT AGREEMENT

Second Amended and Restated Commitment Agreement dated as of April 29, 2011 among Data & Audio Visual Enterprises Holdings Inc. (the "Company"), QCP CW S.A.R.L. ("Quadrangle") and Data & Audio Visual Enterprises Investments Inc. ("DAVE Investments").

For good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1 INTERPRETATION

Section 1.1 Defined Terms.

In this Agreement, unless otherwise specified or inconsistent with the context:

"Advances" means advances made by Quadrangle pursuant to Article 3 and "Advance" means any one of such advances.

"Affiliate" has the meaning ascribed thereto in the Shareholders' Agreement.

"Agreement" means this commitment agreement among the Company, Quadrangle and DAVE Investments, as amended or amended and restated.

"Board" means the board of directors of the Company.

"Business Day" means any day of the year, other than a Saturday, a Sunday or any day on which banks are required or authorized to close in Toronto, Ontario or New York City, New York.

"Class B Shares" means non-voting participating Class B shares of the Company, convertible at the option of the holder on a one-to-one basis into Common Shares.

"Collateral Agent" means the collateral agent appointed under the First Lien Note Indenture.

"Commitment Amount" has the meaning ascribed thereto in Section 3.1.

"Common Shares" means common shares of the Company, convertible on a one-to-one basis at the option of the holder into Class B Shares.

"Company" means Data & Audio Visual Enterprises Holdings Inc., a corporation organized under the laws of Ontario.

"Convertible Debenture" means a convertible debenture issued pursuant to this Agreement.

"Current Amount" means the aggregate of the Payment Amount of any Convertible Debenture and any interest accrued thereon since the last Interest Payment Date.

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"DAVE Funding Amount" has the meaning ascribed thereto in Section 6.1(1)(c).

"DAVE Investments" means Data & Audio Visual Enterprises Investments Inc., a corporation organized under the laws of Ontario.

"Debenture Indenture" means the amended and restated trust indenture dated as of April 29, 2011, governing the Series 2009 Debentures.

"Debenture Trustee" means Equity Financial Trust Company, in its capacity as debenture trustee under the Debenture Indenture.

"Deductible Amount" has the meaning ascribed thereto in Section 4.1.

"First Lien Note Indenture" means the indenture dated as of April 29, 2011, governing the First Lien Senior Secured Notes.

"First Lien Senior Secured Notes" means the 9.5% first lien senior secured notes due April 29, 2018.

"Future Convertible Debentures" has the meaning ascribed thereto in Section 3.5.

"Governmental Entity" means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any court and any government agency, board, commission, tribunal or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.

"Initial Advances" has the meaning ascribed thereto in Section 3.2(1).

"Interest Amounts" has the meaning ascribed thereto in the Convertible Debentures.

"Interest Payment Date" has the meaning ascribed thereto in the Convertible Debentures.

"Initial Convertible Debentures" has the meaning ascribed thereto in Section 3.2(2).

"Laws" means applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, statutory rules, principles of common and civil law and equity, terms and conditions of any grant of approval, permission, orders, decrees, rules, regulations and municipal by-laws, whether domestic, foreign or international; (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, rulings, authority, licence, decrees and awards of any Governmental Entity (including the Securities Regulatory Authorities); and (iii) policies, practices and guidelines of any Governmental Entity (including the Securities Regulatory Authorities), which, although not actually having the force of law, are considered by such Governmental Entity as requiring compliance as if having the force of law, in each case binding on or affecting the Person, or the assets of the Person, referred to in the context in which such word is used, and the term "applicable" with respect to such Laws and in the context that refers to one or more

Persons, means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Governmental Entity (including the Securities Regulatory Authorities) having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities, in each case as such Laws may be amended from time to time.

"Licensee" means Data & Audio-Visual Enterprises Wireless Inc., the licensee of certain spectrum from Industry Canada, or any assignee of such licensee which is an Affiliate of the Company.

"Liquidity Event" means (i) one or more secondary offerings of Shares, and/or (ii) sales or other dispositions of shares or assets of the Company or the Licensee for cash or immediately and readily marketable securities, whether such sales or dispositions are structured as arrangements, amalgamation or other mergers, or a sale of shares, assets or otherwise.

"Loan Documents" means this Agreement and any and all Convertible Debentures issued by the Company to Quadrangle evidencing one or more Advances.

"Marketed Securities" has the meaning ascribed thereto in Section 6.2.

"Notice" has the meaning ascribed thereto in Section 10.3.

"Ownership Interest" has the meaning ascribed thereto in the Shareholders' Agreement.

"Party" means a party to this Agreement and any other Person who may become a party to this Agreement.

"Payment Amount" has the meaning ascribed thereto in the Convertible Debentures.

"Person" means a natural person, partnership, limited partnership, limited liability partnership, limited liability company, unlimited liability company, corporation, joint stock company, trust, unincorporated association, joint venture or other entity or Governmental Entity, and pronouns have a similarly extended meaning.

"Principal Amount" has the meaning ascribed thereto in the Convertible Debentures.

"Pro Forma Funding Amount" has the meaning ascribed thereto in Section 6.1(1)(b).

"Pro Rata Proportion" has the meaning ascribed thereto in the Shareholders' Agreement.

"Quadrangle" means QCP CW S.A.R.L. and any of its Affiliates that acquires a Convertible Debenture in accordance with its terms.

"Quadrangle Funding Amount" has the meaning ascribed thereto in Section 6.1(2)(b).

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"Redemption Date" has the meaning ascribed thereto in the Convertible Debentures.

"Redemption Price" has the meaning ascribed thereto in Section 4.1 or Section 6.4, as the context requires.

"Request for Advance" has the meaning ascribed thereto in Section 3.3(3).

"Requested Funding Amount" has the meaning ascribed thereto in Section 6.1(1)(b).

"Securities Regulatory Authorities" means collectively, the provincial and territorial securities regulatory authority in each of the provinces and territories of Canada, and the Toronto Stock Exchange.

"Series 2009 Debentures" means up to \$95 million principal amount of the series 2009 15.0% senior unsecured debentures due September 15, 2018.

"Shareholders' Agreement" means the unanimous shareholders' agreement among the Company, Quadrangle and all other shareholders of the Company, as such agreement may be amended from time to time.

"Shares" means Class B Shares or Common Shares.

"Strategic Competitor" with reference to the Company or the Licensee, means a Person who is engaged in a Wireless Business where the sale of services in respect of such Wireless Business equals at least 10% of the total annual revenue of such Person and its Affiliates for the most recently completed fiscal year determined on a consolidated basis.

"Warrant" has the meaning ascribed thereto in Section 3.5(b).

"Wireless Business" means the business of providing two-way wireless voice communications and voice telephony services in Canada.

Section 1.2 Rules of Interpretation.

In this Agreement:

- (1) the provision of a Table of Contents, the division of this Agreement into Articles and Sections and the insertion of headings are for convenient reference only and do not affect its interpretation;
- (2) any reference in this Agreement to gender includes all genders. Words importing the singular number also include the plural and *vice versa*;
- (3) all references in this Agreement to dollars or to "\$" are expressed in Canadian currency unless otherwise specifically indicated;
- (4) (i) the words "including", "includes" and "include" mean "including (or includes or include) without limitation", and (ii) the words "the aggregate of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum),

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without duplication, of". The expressions "Article", "Section" and other subdivision followed by a number mean and refer to the specified Article, Section or other subdivision of the Agreement;

- (5) in the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding";
- (6) except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules and regulations made under it as they may have been or may from time to time be amended, re-enacted or superseded;
- (7) the schedules attached to this Agreement form an integral part of it for all purposes of it; and
- (8) all accounting terms not specifically defined in this Agreement shall be interpreted in accordance with generally accepted accounting principles as determined by the Canadian Institute of Chartered Accountants and the International Accounting Standards Board.

ARTICLE 2 CLASS B SHARE ISSUANCE

Section 2.1 Class B Share Issuance.

The Company issued to Quadrangle 200,000 Class B Shares on January 4, 2010 in connection with the transactions contemplated under this Agreement.

Section 2.2 Withholding Taxes.

All amounts payable by the Company to Quadrangle pursuant to this Agreement, shall, unless otherwise required by applicable Laws, be made free and clear of, and without deduction for any amount in respect of taxes. If the Company shall be required by applicable Laws to deduct or withhold any amount in respect of taxes from or in respect of any amount payable hereunder to Quadrangle, the provisions of Section 2.2(3) of the Convertible Debenture shall apply *mutatis mutandis*.

ARTICLE 3 COMMITMENT

Section 3.1 Availability.

Quadrangle shall make available to the Company at the request of the Company, by way of Advances to be evidenced by Convertible Debenture certificates, up to the amount of NINETY FOUR MILLION SEVEN HUNDRED AND FORTY-ONE THOUSAND DOLLARS (\$94,741,000) (the Commitment Amount"). As of the date hereof, an aggregate of \$59,741,000 has been advanced by Quadrangle and the Commitment Amount has been reduced accordingly. For greater certainty, as of the date hereof, the unfunded Commitment Amount from which further Advances may be drawn is equal to \$35 million.

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Section 3.2 Initial Advances.

- (1) As of the date hereof, the Company has issued to Quadrangle (collectively, the "Initial Advances"):
 - (a) \$5,939,182.47 principal amount of Convertible Debentures dated May 22, 2009, in the form set out in Schedule 3.2(1), it being understood that only \$5,741,000 of which forms part of the Commitment Amount;
 - (b) \$35,000,000 principal amount advanced of Convertible Debentures dated September 25, 2009, in the form set out in Schedule 3.2(1); and
 - (c) \$19,000,000 principal amount advanced of Convertible Debentures dated January 26, 2011 in the form set out in Schedule 3.2(1).
- (2) For greater certainty (but subject to Section 9.1(5)), the Convertible Debentures issued in respect of the Initial Advances (the "Initial Convertible Debentures") are direct unsecured obligations of the Company and rank *pari passu* with the Series 2009 Debentures.

Section 3.3 Future Advances.

- (1) Subject to Section 3.3(2), Section 3.3(3) and Section 3.4, Quadrangle agrees, no more than once per calendar quarter, commencing on the quarter beginning January 1, 2010, to make Advances to the Company of up to \$20,000,000, except where Quadrangle has consented to make more frequent or larger Advances.
- (2) The total Advances outstanding from time to time shall not exceed the Commitment Amount.
- (3) Subject to the foregoing and Section 3.4, the Company may request an Advance by delivering to Quadrangle a completed request for Advance in the form of Schedule 3.3(3) (a "Request for Advance") duly executed by an authorized signing officer of the Company not less than ten (10) Business Days prior to the date such Advance is to be funded, with a copy of such Request for Advance concurrently provided to DAVE Investments (for the purposes of Section 6.1) in the manner provided in Section 10.3.

Section 3.4 Conditions Precedent.

The obligation of Quadrangle to make any Advance under this Agreement is subject to the following conditions precedent, each of which must be satisfied on or prior to the date on which each Advance is proposed to be funded, and each of which is for the exclusive benefit of Quadrangle and may be waived by Quadrangle:

- (a) the Company shall have delivered to Quadrangle a Request for Advance satisfying the requirements set forth in Section 3.3(3);
- (b) such Advance shall not violate any order, judgment or decree of any Governmental Entity or any Law; and

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- (c) no event of default shall have occurred and be continuing under any credit facility or indenture pursuant to which the Company is a borrower.

Section 3.5 Manner of Advance.

Upon Quadrangle making any further Advances in accordance with Section 3.3, the Company shall have delivered to Quadrangle:

- (a) a properly completed Convertible Debenture in the form of Schedule 3.5(a), executed by a senior officer of the Company, evidencing such Advance, in Principal Amount equal to the amount of the Advance and dated the date of the applicable Advance; and
- (b) a properly completed warrant certificate (each, a "Warrant") in the form of Schedule 3.5(b) executed by a senior officer of the Company, evidencing the right of Quadrangle to purchase such number of Class B Shares (or in the case of DAVE Investments exercising its pre-emptive rights in accordance with Section 6.1, such number of Common Shares) as set out below at an exercise price equal to \$0.01 per share.

Further Advances	Number of Warrants to be issued per \$1 million of Advance (pro rata)
Up to \$17.5 million	71,429
From \$17.5 million to \$35 million	214,286

For greater certainty, the Convertible Debentures issued in respect of any further Advances (the "Future Convertible Debentures") shall be direct unsecured obligations of the Company and rank subordinated to the Initial Convertible Debentures and the Series 2009 Debentures.

Section 3.6 Expiry of Unfunded Commitments.

Quadrangle shall not be required to provide any Advances after December 31, 2013.

ARTICLE 4

REDEMPTION AND PURCHASE OF DEBENTURE

Section 4.1 Redemption Price.

Notwithstanding the definition of "Redemption Price" set forth in the Convertible Debentures held by Quadrangle, but subject to all other terms of such Convertible Debentures, Section 6.3 of this Commitment Agreement and applicable Laws, the "Redemption Price" for each Convertible Debenture held by Quadrangle shall have the following meaning: the greater of (i) the Current Amount, or (ii) the difference between (x) two times the Principal Amount of such Convertible Debentures, and (y) the Deductible Amount, provided the aggregate Deductible Amount pursuant to this Section 4.1 with respect to all Convertible Debentures issued from time to time shall never exceed \$2 million.

The "Deductible Amount" shall be equal to \$2 million multiplied by a fraction, the numerator of which is the Principal Amount of the Convertible Debenture held by Quadrangle being redeemed and the denominator of which is the aggregate Principal Amount of all Convertible Debentures held by Quadrangle at such time (including the Convertible Debenture being redeemed). For greater certainty, the Principal Amount referred to in (x) above shall not include any interest accrued thereon up to but excluding the Redemption Date.

ARTICLE 5 TRANSFER OF CONVERTIBLE DEBENTURES

Section 5.1 Transfer of Convertible Debentures.

Subject to applicable Laws, upon no less than 20 Business Days prior written notice to the Company (or such shorter notice as the Company may consent to), Quadrangle, in its sole discretion, may sell all or portion of any Convertible Debentures to any Person other than a Strategic Competitor, provided that Quadrangle may not assign pursuant to such transfer any of its rights and obligations under this Commitment Agreement. The procedures for transfer and registration of the Convertible Debentures shall be as set forth in the Convertible Debentures.

Section 5.2 Rights Personal.

Notwithstanding Section 5.1, the benefit of this Agreement in favour of Quadrangle is personal to Quadrangle, and upon sale, transfer or assignment of all or part of a Convertible Debenture to any Person other than to an Affiliate of Quadrangle, neither Quadrangle nor the purchaser of such Convertible Debenture shall benefit from the terms of Article 2, Article 4, or Section 5.1 from that date forward in respect of the Convertible Debenture that is sold, transferred or assigned. For greater certainty, no such sale, transfer or assignment shall affect any rights pursuant to Article 2, Article 4, Section 5.1 accrued or exercised prior to the date of such transfer.

ARTICLE 6 ENTITLEMENT OF DAVE INVESTMENTS

Section 6.1 Pre-Emptive Rights.

- (1) Notwithstanding Section 6.01(3) of the Shareholders' Agreement, in the event that the Company delivers to Quadrangle a Request for Advance in accordance with Section 3.3, then, in respect of each such Request for Advance during such period (other than a Request for Advance referred to in Section 6.1(3) below):
 - (a) the Company shall concurrently deliver a copy of such Request for Advance to DAVE Investments in the manner provided in Section 10.3;
 - (b) such Request for Advance shall additionally state the "Pro Forma Funding Amount", which shall be an amount equal to the sum of: (i) the Advance amount requested in the Request for Advance (the "Requested Funding Amount"), and (ii) the aggregate Payment Amount of all Convertible Debentures (including, for greater certainty, the Initial Convertible

Debentures and any Future Convertible Debentures) issued and outstanding pursuant to this Agreement (as at the date the Request for Advance was issued), whether issued to Quadrangle or DAVE Investments; and

- (c) DAVE Investments shall have the right (but not the obligation) to subscribe pursuant to such Request for Advance for Future Convertible Debentures for an amount (the "DAVE Funding Amount") not exceeding the difference between (x) DAVE Investments' Pro Rata Proportion of the Pro Forma Funding Amount, minus (y) the aggregate Payment Amount and Interest Amounts of any Convertible Debentures previously issued to DAVE Investments (as at the date the Request for Advance was issued), by giving written notice of its subscription to each of the Company and Quadrangle by the later of: (i) two (2) calendar days following delivery of the copy of the Request for Advance, and (ii) a date that is prior to the 11th calendar day prior to the date the Requested Funding Amount is to be funded as specified in the Request for Advance.
- (2) If DAVE Investments exercises its right to subscribe for Future Convertible Debentures pursuant to Section 6.1(1), then
 - (a) DAVE Investments shall fund (and be obligated to fund) the DAVE Funding Amount in accordance with the Request for Advance and Section 3.4 (and comply with its covenants in Section 9.1(4)) and Section 3.5 shall apply *mutatis mutandis* to such funding by DAVE Investments,
 - (b) Quadrangle shall fund an amount (the "Quadrangle Funding Amount") equal to the Requested Funding Amount, less the DAVE Funding Amount, in accordance with Section 3.4 and Section 3.5, and
 - (c) the Commitment Amount shall be reduced by both the DAVE Funding Amount (as if Quadrangle had funded such amount directly) and the Quadrangle Funding Amount, in each case as funded.
 - (3) In the event that, for any reason, DAVE Investments fails to fund the DAVE Funding Amount on the date specified in the Request for Advance, then notwithstanding Section 3.3(1), the Company shall have the right to deliver a further Request for Advance to Quadrangle in the manner provided in Section 3.3(3) for an amount not exceeding the DAVE Funding Amount, and Quadrangle shall fund such amount in accordance with such further Requested for Advance and Section 3.4 and Section 3.5, and the Commitment Amount shall be reduced accordingly.
 - (4) For the purposes of this Section 6.1, Pro Rata Proportion shall be determined by reference to the Ownership Interest of DAVE Investments in relation to the Ownership Interest of Quadrangle (in each case as defined in the Shareholders' Agreement).

Section 6.2 Entitlement to Purchase.

In the event that Quadrangle notifies the Board and DAVE Investments in writing that it intends to sell, transfer or assign a portion of its Convertible Debentures to a party

that is not an Affiliate of Quadrangle ("Marketed Securities"), DAVE Investments shall be entitled to participate in any bidding or offer process pertaining to the sale, transfer or assignment of the Marketed Securities. Without limiting the foregoing, in the event that DAVE Investments is not the successful bidder or offeror in respect of all or part of the Marketed Securities, DAVE Investments shall have a further right to purchase its Pro Rata Proportion of any Marketed Securities which are the subject of a sale, transfer or assignment to a third party, provided DAVE Investments provides the Company and Quadrangle with written notice of its election no more than 15 Business Days following receipt of notice from Quadrangle of the final terms and conditions of the transaction (or such longer notice period as Quadrangle and DAVE Investments may agree to), and upon delivery of such written notice, DAVE Investments shall be bound to purchase such Pro Rata Proportion upon the terms agreed with such third party purchaser and reflected in the notice sent by Quadrangle.

Section 6.3 Amendments to term of Convertible Debentures.

In the event that (i) one or more arm's length third party enters into a binding written commitment to provide equity, debt or convertible debt financing to the Company in an amount which is not less than \$15,000,000, (ii) the commitment requires as a condition of closing that it is necessary to amend any of the terms of any Convertible Debentures held by Quadrangle or DAVE Investments or the Redemption Price pursuant to Section 4.1 and Section 6.4 hereto, and (iii) such amendments are acceptable to Quadrangle, as evidenced by a letter from Quadrangle to such effect, each of Quadrangle and DAVE Investments hereby agrees to the amendment of the terms of all Convertible Debentures held by it and/or to the Redemption Price pursuant to Section 4.1 and Section 6.4 hereto, to the extent necessary to obtain such third party financing, and irrevocably constitutes and appoints the Company as its true and lawful attorney to act for and in the name of it, with full power of substitution, to execute and deliver such documents, instruments or agreements and do all acts and things necessary to effect such amendments, provided that (w) such amendments are only effective upon the closing of the third party equity, debt or convertible financing, (x) to the extent that the terms of the Convertible Debentures held by DAVE Investments and Quadrangle are identical, the required amendments shall be identical, (y) to the extent that the terms of the Convertible Debentures held by DAVE Investments and Quadrangle vary from one another (including with respect to ranking), the required amendments shall be effected in a manner which ensures that the financial impact arising as a result of the amendments is proportionate to the Principal Amount of Convertible Debentures held by each of Quadrangle and DAVE Investments, and (z) no Default or Event of Default (as such terms are defined in the First Lien Note Indenture) could occur under the First Lien Note Indenture as a result of such amendments, if the First Lien Note Indenture is in effect at the relevant time. For purposes of this Section, reference to Convertible Debentures and the terms thereof shall be deemed to include the terms and conditions of the relevant Convertible Debentures as supplemented and modified by this Agreement. In the event that either of Quadrangle or DAVE Investments disagrees with the proportionate allocation of financial impact arising as a result of the application of Section 6.3(y), either of such parties may refer the matter to final and binding arbitration before a single arbitrator. The arbitration will be held in Toronto in accordance with the provisions of the *Arbitrations Act*, 1991 of Ontario. The arbitrator shall be selected by Quadrangle and DAVE Investments and, if the parties cannot agree on the identity of the arbitrator, the arbitrator shall be appointed by a court having jurisdiction. The decision of the arbitrator shall not be subject

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to appeal. Arbitration shall not prevent the initial amendment of the Convertible Debentures, but may result in a further amendment based upon the award of the arbitrator.

Section 6.4 Redemption Price.

Notwithstanding the definition of "Redemption Price" set forth in the Convertible Debentures held by DAVE Investments, but subject to all other terms of such Convertible Debentures, Section 6.3 of this Commitment Agreement and applicable Laws, the "Redemption Price" for each Convertible Debenture held by DAVE Investments shall have the following meaning: the greater of (i) the Current Amount, or (ii) two times the Principal Amount of such Convertible Debentures.

**ARTICLE 7
COVENANT OF THE COMPANY**

Section 7.1 Use of Proceeds.

The Company covenants and agrees with Quadrangle that it will use the proceeds of the sale of the Convertible Debentures for the purposes of building, developing, maintaining and enhancing its wireless communications services and for general corporate purposes.

**ARTICLE 8
CONVERSION OF DEBENTURES**

Section 8.1 Conversion Upon Liquidity Event.

Notwithstanding the provisions of Section 6.1(1)(b) of the Convertible Debentures, the Company shall be entitled, at its option, to cause the conversion of all Convertible Debentures held by Quadrangle and, if applicable, DAVE Investments following the occurrence of a Liquidity Event pursuant to which (i) Quadrangle and, if applicable, DAVE Investments receives in the aggregate proceeds of no less than \$100,000,000 (provided such proceeds are received in proportion to the Payment Amount of the Convertible Debentures held by Quadrangle and DAVE Investments) pursuant to transactions or distributions producing proceeds to Quadrangle and, if applicable, DAVE Investments of not less than \$30 per Share, subject to any adjustment in a manner consistent with adjustments to be made pursuant to Section 6.4 of the Convertible Debentures, or (ii) the Company receives in the aggregate proceeds of no less than \$100,000,000 pursuant to a transaction or a series of related transactions, where at such time the value of the Shares, as determined by the Board of the Company in consultation with a nationally recognized third-party financial advisor, is not less than \$30 per Share, subject to any adjustment in a manner consistent with adjustments to be made pursuant to Section 6.4 of the Convertible Debentures.

**ARTICLE 9
SUBORDINATION OF PAYMENT RIGHTS**

Section 9.1 Subordination of Payment Rights.

- (1) With respect to the Initial Convertible Debentures, Quadrangle agrees that its rights to payment pursuant to any provisions hereof are fully and effectively subordinated and postponed to all Senior Indebtedness (as defined in the Initial Convertible Debentures) to the same extent, and in the manner set forth in Article 4 of such

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Convertible Debentures, as if each such payment made pursuant to such provisions were a payment made in respect of the Convertible Debentures.

- (2) With respect to the Future Convertible Debentures, Quadrangle agrees that its rights to payment pursuant to any provisions hereof are fully and effectively subordinated and postponed to all Senior Indebtedness (as defined in the Future Convertible Debentures) to the same extent, and in the manner set forth in Article 4 of such Convertible Debentures, as if each such payment made pursuant to such provisions were a payment made in respect of the Convertible Debentures.
- (3) Contemporaneously with the execution of this Agreement, Quadrangle shall enter into an intercreditor agreement with, *inter alia*, the Debenture Trustee under the Debenture Indenture, execute an acknowledgement of subordination substantially in the form set out in Schedule "E" to the Debenture Indenture, with such modifications as the context requires, and enter into an amended and restated support agreement with the Debenture Trustee.
- (4) DAVE Investments covenants and agrees that, if and when it exercises its right to subscribe for Future Convertible Debentures pursuant to Section 6.1(1), it shall execute a joinder to each of the intercreditor agreement and support agreement referred to in Section 9.1(3) above, and execute an acknowledgement of subordination substantially in the form set out in Schedule "E" to the Debenture Indenture, with such modifications as the context requires.
- (5) At any time and from time to time after the date hereof, Quadrangle may, in its sole discretion, deliver all or part of the Initial Convertible Debentures and request that the Company amend such Initial Convertible Debentures such that their provisions with respect to subordination are consistent with the form of Convertible Debenture set out in Schedule 3.5(a). Upon the receipt of such request, the Company shall promptly effect such amendments.

ARTICLE 10 MISCELLANEOUS

Section 10.1 Indemnification.

The Company agrees to indemnify Quadrangle from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (except by reason of the negligence or wilful misconduct of Quadrangle) which may be imposed on, incurred by, or asserted against Quadrangle and arising by reason of any action (including any action referred to herein) or inaction or omission to do any act legally required of the Company.

Section 10.2 Substitution.

Quadrangle may at any time, by notice in writing to the Company, assign this Agreement, or any of its rights hereunder, to one or more of its Affiliates, provided the assignee acknowledges that it is bound by the terms and conditions of this Agreement. Following any such assignment, any references in this Agreement to "Quadrangle" shall be deemed to include Quadrangle and any such assignees.

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Section 10.3 Notice.

Any notice, direction or other communication (each a "Notice") given regarding the matters contemplated by this Agreement must be in writing, sent by personal delivery, courier or facsimile (but not by electronic mail) and addressed:

To Quadrangle at:

QCP CW S.A.R.L.
412F route d'Esch
L-1030 Luxembourg
Grand-Duchy of Luxembourg

Attention: Luca Gallinelli
Facsimile: (011) 352-471101
E-mail:

with a copy to:

Quadrangle Capital Partners
375 Park Avenue
New York, N.Y. 10152

Attention: Michael Huber
Facsimile: (212) 418-1724
E-mail: Michael.Huber@quadranglegroup.com

With a copy, which shall not constitute notice, to:

McCarthy Tétrault
Suite 5300, TD Bank Tower
Toronto Dominion Centre
Toronto, ON
M5K 1E6

Attention: Andrew Armstrong
Facsimile: (416) 601-8310
E-mail: aarmstro@mccarthy.ca

To the Company at:

Suite 2300
Canada Trust Tower,
Brookfield Place
161 Bay Street, Toronto M5J 2S1

Attention: Mr. Stewart Lyons
Facsimile: (416) 650-9706

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E-mail: Stewart.Lyons@davewireless.com

With a copy, which shall not constitute notice, to:

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario M5L 1B9

Attention: Dee Rajpal
Facsimile: (416) 947-0866
E-mail: drajp@stikeman.com

To DAVE Investments at:

Suite 2300
Canada Trust Tower,
Brookfield Place
161 Bay Street
Toronto M5J 2S1

Attention: Mr. John Bitove
Facsimile: (416) 650-9706
E-mail: Bitove@obelysk.com

With a copy, which shall not constitute notice, to:

Borden Ladner Gervais LLP
Scotia Plaza
40 King Street West
Toronto, Ontario, M5H 3Y4

Attention: Jim Elder
Facsimile: (416) 361-7081
E-mail: jelder@blgcanada.com

A Notice is deemed to be delivered and received (i) if sent by personal delivery, same-day service courier or e-mail, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day; (ii) if sent by overnight courier, on the next Business Day; or (iii) if sent by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile. A Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a Notice will be assumed not to be changed.

Section 10.4 Time of the Essence.

Time shall be of the essence of this Agreement.

Section 10.5 Rules of Construction.

The Parties to this Agreement have been represented by counsel during the negotiation and execution of this Agreement and waive the application of any laws or rule of construction providing that ambiguities in any agreement or other document shall be construed against the Party drafting such agreement or other document.

Section 10.6 Announcements.

The Parties shall consult with each other before issuing any press release, news release or otherwise making any filings or public statements with respect to this Agreement and the transactions contemplated herein and shall not issue such press release without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, in each case, subject to applicable Laws and the exercise of such fiduciary duties, as may be appropriate.

Section 10.7 Third Party Beneficiaries.

The Parties intend that this Agreement will not benefit or create any right or cause of action in favour of any Person, other than the Parties or, if applicable, their respective Affiliates. No Person, other than the Parties and such Affiliates, is entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum. The Parties reserve their right to vary or rescind the rights at any time and in any way whatsoever, if any, granted by or under this Agreement to any Person who is not a Party or an Affiliate of any Party, without notice to or consent of that Person, except that the Parties agree that the stipulations for the benefit of each of the holders of First Lien Senior Secured Notes set out in this Agreement shall not be revoked or amended without compliance with Section 10.11 of this Agreement.

Section 10.8 No Personal Liability.

The obligations of the Company under this Agreement are not personally binding upon any registered or beneficial holder of Shares, any current or former directors, officers or agents of the Company, or any annuitant under a plan of which a shareholder of the Company acts as trustee or carrier and resort shall not be had to, nor shall recourse or satisfaction be sought from, any of such Persons or the private property of any such Persons. Any recourse against any of such Persons in any manner in respect of any indebtedness of the Company arising hereunder shall be limited to, and satisfied only out of, the assets of the Company.

Section 10.9 No Agency or Partnership.

Nothing contained in this Agreement makes or constitutes any Party, or any of its directors, officers or employees, the representative, agent, principal, partner, joint venturer, employer, employee of any other Party. It is understood that no Party has the capacity to make commitments of any kind or incur obligations or liabilities binding upon any other Party.

Section 10.10 Expenses.

Except as otherwise expressly provided in this Agreement, all fees and expenses incurred by each Party in connection with this Agreement and the transactions contemplated by it shall be paid by the Company. The fees and expenses referred to in this Section are those which are incurred in connection with the negotiation, preparation, execution and performance of this Agreement and the other Loan Documents, and the transactions contemplated by this Agreement, including the reasonable fees and expenses of legal counsel, investment advisers and accountants.

Section 10.11 Amendments.

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by all of the Parties, except that the written agreement of DAVE Investments shall only be required in respect of any amendments, supplements or other modifications to the terms set out in Article 6 or Article 10 (save and except for Section 10.1 and Section 10.2) of this Agreement. In addition, the written agreement of the Collateral Agent under the First Lien Note Indenture, acting reasonably, shall be required in respect of any, direct or indirect, amendments, supplements or other modifications to the terms set out in Article 3, Article 4, Article 9, Section 10.7 and Section 10.11 of this Agreement, provided the First Lien Note Indenture is in full force and effect at such time. In the event that the written agreement of the Collateral Agent under the First Lien Note Indenture is so required, the Company shall notify the Collateral Agent in writing of the proposed amendment, supplement or other modification, and the Collateral Agent shall have ten (10) Business Days following delivery of such notice to notify the Parties (as applicable) in writing of its acceptance or rejection of such proposed amendment, supplement or other modification, failing which the Collateral Agent shall be deemed to have accepted the proposed amendment, supplement or other modification set out in the notice.

Section 10.12 Waiver.

- (1) No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the Party to be bound by the waiver. A Party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Party from any other or further exercise of that right or the exercise of any other right.
- (2) 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.

Section 10.13 Entire Agreement; Conflict.

- (1) This Agreement, and all documents contemplated by or delivered under or in connection with this Agreement including any Convertible Debenture, and the Shareholders' Agreement and any agreements entered into in connection therewith, constitutes the entire agreement between the Parties with respect to the transactions contemplated by this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties,

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including, for greater certainty, the Amended and Restated Commitment Agreement among the Parties dated December 17, 2009, as amended on January 26, 2011. 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 in this Agreement. The Parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement, except as set out herein.

- (2) In the event of, and to the extent only of, any conflict between the provisions of this Agreement, including but not limited to Article 4 and the provisions of any Convertible Debenture held by Quadrangle, the provisions of this Agreement shall prevail. The provisions of this Agreement shall not affect the terms of any Convertible Debenture not held by Quadrangle.
- (3) With reference to the Shareholders' Agreement, the Parties hereby agree that any matter set out in this Agreement or in any Convertible Debenture held by Quadrangle, save and except for matters relating to the Company's right to redeem or cause the conversion of Convertible Debentures held by Quadrangle or an Affiliate of Quadrangle or the purchase of Convertible Debentures from Quadrangle or an Affiliate of Quadrangle by private contract (in accordance with the terms of the Convertible Debentures), shall not constitute an Interested Matter as defined in the Shareholders' Agreement.

Section 10.14 Successors and Assigns.

- (1) This Agreement becomes effective only when executed by all of the Parties. After that time, it is binding on and enures to the benefit of the Parties and their respective heirs, administrators, executors, legal personal representatives, successors and permitted assigns.
- (2) Except as otherwise provided in this Agreement, neither this Agreement nor any of the rights or obligations under this Agreement are assignable or transferable by the Company or DAVE Investments without the prior written consent of Quadrangle, nor by Quadrangle without the prior written consent of the Company. For greater certainty, the rights or obligations under the Convertible Debentures are assignable or transferable in accordance with the terms of the Convertible Debenture.

Section 10.15 Further Assurances.

The Parties agree to execute and deliver such further and other papers, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their vote and influence, and do and perform and cause to be done and performed, such further and other acts and things that may be necessary or desirable in order to give full effect to this Agreement and every part thereof.

Section 10.16 Severability.

If any provision of this Agreement is determined to be illegal, invalid or unenforceable, by an arbitrator or any court of competent jurisdiction from which no appeal

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exists or is taken, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.

Section 10.17 Governing Law and Submission to Jurisdiction.

This Agreement, and all matters arising out of or related to this Agreement, shall be governed by, and construed and interpreted in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable thereto. Any suit, action or proceeding against any Party arising out of or related to this Agreement shall be brought in the Province of Ontario, and each Party irrevocably and unconditionally attorns and submits to the exclusive jurisdiction of the courts of the Province of Ontario over the subject matter of any such suit, action or proceeding. Each Party irrevocably and unconditionally waives any right such Party may have to trial by jury in respect of any suit, action or proceeding arising out of or related to this Agreement. Each Party irrevocably consents to process being served on such Party in any suit, action or proceeding related to this Agreement by delivery of a copy thereof in accordance with the provisions of Section 10.3.

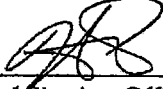
Section 10.18 Counterparts.

This Agreement may be executed in any number of counterparts (including counterparts by facsimile) and all such counterparts taken together will be deemed to constitute one and the same instrument. The Party sending the facsimile transmission will also deliver the original signed counterpart to the other Party, however, failure to deliver the original signed counterpart shall not invalidate this Agreement.

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

IN WITNESS WHEREOF the Parties have executed this Agreement.

DATA & AUDIO-VISUAL
ENTERPRISES HOLDINGS INC.

By: 
Authorized Signing Officer

QCP CW S.A.R.L.

By: _____
Authorized Signing Officer

IN WITNESS WHEREOF, DAVE Investments acknowledges and agrees to the terms set out in Article 6, Section 9.1(4) and Article 10 (save and except for Section 10.1 and Section 10.2) of this Agreement.

DATA & AUDIO-VISUAL ENTERPRISES
INVESTMENTS INC.

By: _____
Authorized Signing Officer

IN WITNESS WHEREOF the Parties have executed this Agreement.

DATA & AUDIO-VISUAL
ENTERPRISES HOLDINGS INC.

By: _____
Authorized Signing Officer

QCP CW S.A.R.L.

By: M. H. L.
Authorized Signing Officer

IN WITNESS WHEREOF, DAVE Investments acknowledges and agrees to the terms set out in Article 6, Section 9.1(4) and Article 10 (save and except for Section 10.1 and Section 10.2) of this Agreement.

DATA & AUDIO-VISUAL ENTERPRISES
INVESTMENTS INC.

By: _____
Authorized Signing Officer

IN WITNESS WHEREOF the Parties have executed this Agreement.

DATA & AUDIO-VISUAL
ENTERPRISES HOLDINGS INC.

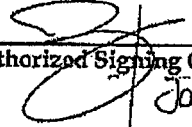
By: _____
Authorized Signing Officer

QCP CW S.A.R.L.

By: _____
Authorized Signing Officer

IN WITNESS WHEREOF, DAVE Investments acknowledges and agrees to the terms set out in Article 6, Section 9.1(4) and Article 10 (save and except for Section 10.1 and Section 10.2) of this Agreement.

DATA & AUDIO-VISUAL ENTERPRISES
INVESTMENTS INC.

By: _____
Authorized Signing Officer

JOHN D'ARCE

SCHEDULE 3.2(1)
FORM OF CONVERTIBLE DEBENTURE IN RESPECT OF INITIAL ADVANCES

See attached.

Final Form.

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

CONVERTIBLE DEBENTURE

[insert date]

[NTD: MAY DEBENTURE AND SEPTEMBER DEBENTURE SHALL EACH BE NAMED "AMENDED AND RESTATED CONVERTIBLE DEBENTURE" AND DATED MAY 22, 2009 AND SEPTEMBER 25, 2009, RESPECTIVELY.]

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CONVERTIBLE DEBENTURE

Convertible Debenture dated [insert date] issued by Data & Audio-Visual Enterprises Holdings Inc. (together with its successors and permitted assigns, the "Corporation"). [NTD: May Debenture and September Debenture shall each be named "Amended and Restated Convertible Debenture".]

ARTICLE 1 INTERPRETATION

Section 1.1 Defined Terms.

Capitalized terms used in this Debenture and not otherwise defined have the meanings given to them in Schedule 1.1, unless there is something in the subject matter or context inconsistent therewith.

Section 1.2 Headings, etc.

The provision of a Table of Contents, the division of this Debenture into Articles and Sections and the insertion of headings are for convenient reference only and do not affect its interpretation.

Section 1.3 Gender and Number.

Any reference in this Debenture to gender includes all genders. Words importing the singular number also include the plural and *vice versa*.

Section 1.4 Currency.

All references in this Debenture to dollars or to "\$" are to Canadian currency unless otherwise specifically indicated.

Section 1.5 Numerical Expressions.

Numerical expressions in this Debenture follow the international convention whereby a comma (,) separates the thousands and a full stop (.) separates the decimals.

Section 1.6 Certain Phrases.

In this Debenture, (i) the words "including", "includes" and "include" mean "including (or includes or include) without limitation", and (ii) the words "the aggregate of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of". The expressions "Article", "Section" and other subdivision followed by a number mean and refer to the specified Article, Section or other subdivision of the Debenture. In the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

Section 1.7 Statutory References.

Except as otherwise provided in this Debenture, any reference in this Debenture to a statute refers to such statute and all rules and regulations made under it as they may have been or may from time to time be amended, re-enacted or superseded.

Section 1.8 Schedules.

The schedules attached to this Debenture form an integral part of it for all purposes of it.

Section 1.9 Day not a Business Day.

In the event that any calendar day on or before which any action required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding calendar day that is a Business Day.

**ARTICLE 2
PRINCIPAL AMOUNT AND INTEREST**

Section 2.1 Principal Amount.

- (1) For value received, the Corporation hereby **PROMISES TO PAY** to or to the order of the Holder, the principal amount of [INSERT AMOUNT] (\$●) (such outstanding principal amount (the "Principal Amount"), together with any Interest Amount added pursuant to Section 2.2(2), being collectively, with the Principal Amount, referred to herein, the "Payment Amount") as recorded under the column headed "Payment Amount" on the record (the "Grid") attached as Schedule 2.1 to and forming part of this Debenture, together with interest otherwise accruing on such Payment Amount at the rate, calculated in the manner, and payable at the times and in the manner, specified in this Debenture.
- (2) Subject to the remaining terms and conditions of this Debenture, the Corporation shall pay the Payment Amount to the Holder on September 25, 2018 (the "Maturity Date") in lawful money of Canada on presentation and surrender of this Debenture at the principal office of the Corporation in the Province of Ontario.

Section 2.2 Interest.

- (1) The Payment Amount remaining from time to time unpaid and outstanding shall bear interest, both before and after demand and judgment to the date of the repayment in full of the Payment Amount, at a rate of 12.00% per annum. Interest at such rate shall accrue and be calculated daily on the basis of the actual number of days (including the first day but excluding the last day) elapsed in a year of 365 days or 366 days, as the case may be, and shall be payable as hereinafter set forth in this Section 2.2.
- (2) Interest shall be payable annually on the last Business Day of each anniversary of the date hereof (each an "Interest Payment Date"), commencing [insert date]. On each Interest Payment Date, any accrued and unpaid interest on this Debenture ("Interest Amount") shall be added to the outstanding Payment Amount referred to in Section 2.1(1) and recorded on the Grid under the column headed "Payment Amount", and shall thereafter bear interest itself as referred to in Section 2.1(1) until such time it is paid. [NTD: The first sentence of this paragraph shall be revised as follows for the Amended and Restated May Debenture to be issued in respect of the Initial Advance: "Interest shall be payable annually on the last Business Day of each anniversary of the 22nd day of May (each an "Interest Payment Date"), commencing May 22, 2010."] [NTD: The first sentence of this paragraph shall be

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revised as follows for the Amended and Restated September Debenture to be issued in respect of the Initial Advance: "Interest shall be payable annually on the last Business Day of each anniversary of the 25th day of September (each an "Interest Payment Date"), commencing September 25, 2010."

- (3) All amounts payable by the Corporation to a Holder hereunder, including any amounts payable on a conversion, shall, unless otherwise required by applicable Laws, be made free and clear of, and without deduction for any amount in respect of taxes. If the Corporation shall be required by applicable Laws to deduct or withhold any amount in respect of taxes from or in respect of any amount payable hereunder to a Holder: (i) the Corporation shall make such deductions or withholdings; (ii) the Corporation shall remit the full amount deducted or withheld to the relevant taxing authority in accordance with applicable Laws; and (iii) any payment made under this section by the Corporation to the Holder, including amounts withheld and remitted to the relevant taxing authority pursuant to (i) and (ii) of this section in respect of such payment, shall satisfy and discharge the liability of the Corporation for amounts required to be paid hereunder. If any amount is required to be deducted and withheld in respect of taxes under applicable Laws upon the conversion of this Debenture (whether at the option of the Holder or the Corporation), the Corporation shall provide notice to the Holder of the amount so required to be deducted and withheld (the "Required Withholding Amount") and (i) the Holder shall be entitled to deliver such amount to the Corporation within 10 Business Days of receipt of notice as to such amount (the "Withholding Notice Period"), and the amount so delivered (if equal to the Required Withholding Amount) shall constitute the amount to be deducted, withheld and remitted by the Corporation, or (ii) if the Holder does not provide the Required Withholding Amount to the Corporation prior to the expiry of the Withholding Notice Period, the Corporation shall be entitled to liquidate such number of Class B Shares resulting from such conversion as shall be necessary to produce the Required Withholding Amount. If any other amount payable hereunder is payable by the Corporation otherwise than by the delivery of cash, the Corporation shall be entitled to withhold and liquidate any such non-cash property to the extent necessary to satisfy its withholding and/or remittance obligations in accordance with this Section.
- (4) Notwithstanding anything to the contrary in this Article 2, interest payable on the Maturity Date shall be paid to the Holder in cash as part of the Payment Amount as provided in Section 2.1.
- (5) [The following shall only be inserted in the Convertible Debenture issued in respect of Amended and Restated May Debenture: "Notwithstanding Section 2.2(1), the interest payable on this Debenture on the first Interest Payment Date shall be an amount equal to \$●."] [The following shall only be inserted in the Convertible Debenture issued in respect of Amended and Restated September Debenture: "Notwithstanding Section 2.2(1), the interest payable on this Debenture on the first Interest Payment Date shall be an amount equal to \$●."]

ARTICLE 3 REDEMPTION AND PURCHASE OF DEBENTURE

Section 3.1 Redemption.

- (1) This Debenture will be redeemable in accordance with the terms of this Article 3. On and after the date hereof, this Debenture may be redeemed at the option of the Corporation in whole or in part from time to time before the Maturity Date, on notice as provided for in Section 3.2 and upon payment of the Redemption Price as set out in Section 3.3. For greater certainty and notwithstanding receipt of a Redemption Notice, the Holder shall have the right to exercise its conversion rights pursuant to and in accordance with Article 6 at any time prior to the Redemption Date.
- (2) No Debenture shall be redeemed in part unless the Principal Amount redeemed is \$1,000 or a multiple thereof. In the event that this Debenture becomes subject to redemption in part only, upon surrender of such Debenture for payment of the Redemption Price, the Corporation shall execute and deliver without charge to the Holder one or more new Debentures for the unredeemed part of the Principal Amount of the Debenture so surrendered, with the applicable Payment Amount recorded and on the Grid of such Debenture or Debentures. Unless the context otherwise requires, the term "Debenture" as used in this Article 3 shall be deemed to mean or include any part of the Payment Amount of the Debenture which in accordance with the foregoing provisions has become subject to redemption but has not yet been redeemed.

Section 3.2 Redemption Notice.

Notice of redemption (the "Redemption Notice") of this Debenture shall be given to the Holder so to be redeemed not more than 60 days nor less than 30 days prior to the date fixed for redemption (the "Redemption Date") in the manner provided in Section 10.3 and in the form of Schedule 3.2. Every Redemption Notice shall specify the aggregate Principal Amount called for redemption, the Redemption Date, the Payment Amount, the Redemption Price and the amount of the accrued and unpaid interest to be paid thereon to but excluding the Redemption Date and the place of payment and shall state that interest upon the Payment Amount of the Debenture called for redemption shall cease to be payable from and after the Redemption Date.

Section 3.3 Redemption Price.

- (1) This Debenture will be redeemable at a Redemption Price equal to the Payment Amount as reflected on the Grid (being, for greater certainty, the Principal Amount and all accrued and unpaid Interest Amounts on this Debenture determined in accordance with Section 2.2), and in addition thereto, at the time of redemption, the Corporation shall pay to the Holder accrued and unpaid interest not included in the Payment Amount, calculated up to but excluding the Redemption Date, such aggregate amount determined pursuant to this Section 3.3(1) being the "Redemption Price".
- (2) Payment of funds to the Holder on the Redemption Date shall be made by electronic transfer to such account as shall be directed in writing by the Holder or pursuant to

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such other arrangements for the provision of funds as may be agreeable between the Holder and the Corporation in order to effect such redemption payment hereunder. Notwithstanding the foregoing, all payments in excess of \$25 million in Canadian dollars (or such other amount as determined from time to time by the Canadian Payments Association) shall be made by the use of the Large Value Transfer System (LVTS).

Section 3.4 Failure to Surrender Debenture Called for Redemption.

In case the Holder shall fail on or before the Redemption Date to surrender this Debenture, or shall not within such time accept payment of the Redemption Price, such Redemption Price may be set aside in trust with or without interest, and such setting aside shall for all purposes be deemed to be a payment to the Holder of the sum so set aside at that time and, to that extent, the aggregate Payment Amount called for redemption shall thereafter not be considered as outstanding hereunder and the Holder shall have no other right except to receive payment out of the monies so paid and deposited, upon surrender and delivery up of such Holder's Debenture, of the Redemption Price of such Debenture. In the event that any money shall remain so deposited for a period of six years from the Redemption Date, then such monies, together with any accumulated interest thereon, shall at the end of such period be returned to the Corporation on its demand, and subject to applicable Laws, thereafter the Holder shall have no rights in respect thereof except to obtain payment of the money due from the Corporation, subject to any limitation period provided by the laws of Ontario.

Section 3.5 Cancellation of Debenture Redeemed.

Subject to the provisions of Section 3.1(2) as to this Debenture redeemed in part, this Debenture redeemed and paid under this Article 3 shall forthwith be delivered to the Corporation and cancelled and no Debenture shall be issued in substitution therefor.

Section 3.6 Purchase of Debenture by the Corporation.

The Corporation may purchase this Debenture in whole or in part by private contract, at any price, provided that, if an Event of Default has occurred and is continuing, the Corporation will not have such right to purchase this Debenture by private contract. This Debenture so purchased shall be delivered to the Corporation and cancelled and no Debenture shall be issued in substitution therefor. In the event only a part of this Debenture is purchased, upon surrender of this Debenture for payment, the Corporation shall execute and deliver without charge to the Holder one or more new Debentures for the part of the Principal Amount of the Debenture so surrendered but not purchased, with the applicable Payment Amount recorded on the Grid on such Debenture or Debentures. Any decision by the Corporation to purchase Debentures by private contract shall be made by the board of directors of the Corporation which shall not include any vote by any nominee director of the Holder.

ARTICLE 4 SUBORDINATION OF DEBENTURES

Section 4.1 Rank.

- (1) This Debenture is a direct unsecured obligation of the Corporation. The Indebtedness of the Corporation under this Debenture, whether on account of

principal, interest or otherwise (collectively, the "Debenture Liabilities"), shall be fully and effectively subordinated and postponed to the extent and in the manner hereinafter set forth in the following sections of this Article 4, to the full and final payment of all Senior Indebtedness of the Corporation and the Holder agrees to and shall be bound by the provisions of this Article 4. Subject to the foregoing and to statutory exceptions, this Debenture ranks *pari passu* with all other present and future Indebtedness of the Corporation.

- (2) The Senior Indebtedness shall continue to be Senior Indebtedness and shall be entitled to the benefits of this Article 4 irrespective of any amendment, modification or waiver of any term (other than a release, discharge or other event that results in the applicable Indebtedness no longer being Senior Indebtedness) of such Senior Indebtedness and notwithstanding that no express written subordination agreement may have been entered into between the holders of such Senior Indebtedness and the Holder.
- (3) Upon request of the Corporation and upon being furnished with evidence satisfactory to the Holder, acting reasonably, that one or more named Persons are holders of Senior Indebtedness, or is the representative or representatives of such holders, or is the trustee or trustees under which any instrument evidencing such Senior Indebtedness may have been issued, and specifying the amount and nature of such Senior Indebtedness, the Holder shall enter into a written agreement or agreements with such Persons to more fully specify the terms and conditions of the subordination set out in this Debenture. Such agreement or agreements shall be conclusive evidence that the Indebtedness specified therein is Senior Indebtedness, provided that nothing therein shall affect the subordination provisions contained herein or impair the rights of any holder of Senior Indebtedness who has not entered into such an agreement to rely upon and enforce such subordination provisions.

Section 4.2 Order of Payments.

- (1) In the event of any voluntary or involuntary dissolution, winding-up or liquidation, or any bankruptcy, insolvency, receivership, creditor enforcement or realization or other similar proceedings relating to the Corporation or any of its property (whether voluntary or involuntary, partial or complete) or any other marshalling of the assets and liabilities of the Corporation, any reorganization or any sale, distribution or other transfer of all or substantially all of the assets of the Corporation:
 - (a) all Senior Indebtedness shall first be paid in full, or provision made for such payment, before any payment or distribution is made on account of the Debenture Liabilities;
 - (b) any payment or distribution of assets of the Corporation, whether in cash, property or securities, to which the Holder would be entitled except for the provisions of this Article 4, shall be paid or delivered by the trustee in bankruptcy, receiver, assignee for the benefit of creditors, or other liquidating agent making such payment or distribution, directly to the holders of Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing

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any of such Senior Indebtedness may have been issued, to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness before any payment or distribution is made to the Holder; and

- (c) the Senior Creditors or a receiver or a receiver-manager of the Corporation or of all or part of its assets or any other enforcement agent may sell, mortgage, or otherwise dispose of the Corporation's assets in whole or in part, free and clear of all Debenture Liabilities and without the approval of the Holder or any requirement to account to the Holder, except in respect of any excess after discharge of all Senior Indebtedness.

The rights and priority of the Senior Indebtedness and the subordination pursuant hereto shall not be affected by :

- (i) the time, sequence or order of creating, granting, executing, delivering of, or registering, perfecting or failing to register or perfect any security notice, caveat, financing statement or other notice in respect of the Senior Security;
- (ii) the time or order of the attachment, perfection or crystallization of any security constituted by the Senior Security;
- (iii) the taking of any collection, enforcement or realization proceedings pursuant to the Senior Indebtedness;
- (iv) the date of obtaining of any judgment or order of any bankruptcy court or any court administering bankruptcy, insolvency or similar proceedings as to the entitlement of the Senior Creditors, or any of them or the Holder or any of them to any money or property of the Corporation;
- (v) the failure to exercise any power or remedy reserved to the Senior Creditors under documents evidencing the Senior Indebtedness or under the Senior Security or to insist upon a strict compliance with any terms thereof;
- (vi) whether any Senior Security is now perfected, hereafter ceases to be perfected, is avoidable by any trustee in bankruptcy or like official or is otherwise set aside, invalidated or lapses;
- (vii) the date of giving or failing to give notice to or making demand upon the Corporation; or
- (viii) any other matter whatsoever.

Section 4.3 Subrogation to Rights of Holders of Senior Indebtedness.

- (1) Subject to the irrevocable and unconditional prior payment in full of all Senior Indebtedness, the Holder shall be subrogated to the rights of the holders of Senior Indebtedness or their representative or representatives, or the trustee or trustees under any indenture pursuant to which any instrument evidencing any such Senior Indebtedness may have been issued, to receive payments or distributions of assets of the Corporation to the extent of the application thereto of such payments or other assets which would have been received by the Holder but for the provisions hereof until the Principal Amount of, and interest on, this Debenture shall be paid in full, and no such payments or distributions to the Holder of cash, property or securities, which otherwise would be payable or distributable to the holders of the Senior Indebtedness, shall, as between the Corporation, its creditors other than the holders of Senior Indebtedness, and the Holder, be deemed to be a payment by the Corporation to the holders of the Senior Indebtedness or on account of the Senior Indebtedness, it being understood that the provisions of this Article 4 are and are intended solely for the purpose of defining the relative rights of the Holder, on the one hand, and the holders of Senior Indebtedness, on the other hand.
- (2) The Holder hereby waives any and all rights to require a Senior Creditor to pursue or exhaust any rights or remedies with respect to the Corporation or any property and assets subject to the Senior Security or in any other manner to require the marshalling of property, assets or security in connection with the exercise by the Senior Creditors of any rights, remedies or recourses available to them.

Section 4.4 Obligation to Pay Not Impaired.

Nothing contained in this Article 4 or elsewhere in this Debenture is intended to or shall impair, as between the Corporation, its creditors other than the holders of Senior Indebtedness, and the Holder, the obligation of the Corporation, which is absolute and unconditional, to pay to the Holder the Payment Amount of, including unpaid Interest Amounts on, this Debenture, as and when the same shall become due and payable in accordance with its terms, or affect the relative rights of the Holder and creditors of the Corporation other than the holders of the Senior Indebtedness, nor shall anything herein or therein prevent the Holder from exercising all remedies otherwise permitted by applicable Laws or under this Debenture upon default under this Debenture, subject to the rights, if any, under this Article 4 of the holders of Senior Indebtedness.

Section 4.5 No Payment if Senior Indebtedness in Default.

- (1) No payment of any Principal Amount of, or interest (or any other amounts payable) in respect of, this Debenture or in respect of any Redemption Price may be made, and the Holder will not be entitled to institute proceedings (other than as may be necessary to preserve a limitation period) for the collection of, or receive any payment or benefit (including, without limitation, by setoff, combination of accounts or realization of security or otherwise in any manner whatsoever) on account of, Indebtedness represented by this Debenture:
 - (a) in a manner inconsistent with the terms (as they exist on the date of issue) of this Debenture;

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- (b) at any time when an event of default has occurred under Senior Indebtedness, and such event of default is continuing and notice of such event of default has been given by or on behalf of the holders of such Senior Indebtedness to the Corporation unless and until such Senior Indebtedness has been paid and satisfied in full or such event of default shall have been cured or waived in writing in accordance with the provisions of such Senior Indebtedness; or
 - (c) if the making of any such payment or the taking of any such action would create, by the lapse of time or giving of notice, an event of default under any Senior Indebtedness unless and until such Senior Indebtedness has been satisfied in full or the making of any such payment or taking of such action would no longer create, by the lapse of time or giving of notice, an event of default under any Senior Indebtedness.
- (2) If, notwithstanding any other provisions herein, the Holder receives any payment when such payment should have been paid to the holders of Senior Indebtedness pursuant to Section 4.2(1)(b) or when payment under this Debenture is prohibited by Section 4.5(1), as the case may be, but not otherwise, such payment shall be held in trust for the benefit of, and shall be paid or delivered to, the holders of the Senior Indebtedness or their respective representative or representatives, or to the trustee or trustees under which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Corporation, to the extent necessary to pay such Senior Indebtedness in full, in cash, after giving effect to any other concurrent payment or distribution to or for the benefit of the holders of such Senior Indebtedness.

Section 4.6 Payment on Debentures Permitted.

Nothing contained in this Article 4 or elsewhere in this Debenture shall affect the obligation of the Corporation to make, or prevent the Corporation from making, at any time except as prohibited by Section 4.5, any payment of Payment Amount of, or interest on, this Debenture, including as part of any Redemption Price. The fact that any such payment is prohibited by Section 4.5 shall not prevent the failure to make such payment from being an Event of Default hereunder. Nothing contained in this Article 4 or elsewhere in this Debenture shall prevent the conversion of this Debenture or, except as prohibited by Section 4.7, the application by the Holder of any monies deposited with the Holder hereunder for the purpose, to the payment of or on account of the Debenture Liabilities.

Section 4.7 Rights of Holders of Senior Indebtedness Not Impaired.

No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Corporation or by any non-compliance by the Corporation with the terms, provisions and covenants of this Debenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

Section 4.8 Altering the Senior Indebtedness.

The holders of the Senior Indebtedness have the right to extend, renew, modify, supplement, amend or amend and restate the terms of the Senior Indebtedness or any

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security therefor and to release, sell or exchange such security and otherwise to deal freely with the Corporation, all without notice to or consent of the Holder and without affecting the provisions of this Article 4 or the other liabilities and obligations of the parties to this Debenture or the holders of Debentures.

Section 4.9 Additional Indebtedness.

This Debenture does not restrict the Corporation from incurring additional Senior Indebtedness or other Indebtedness for borrowed money (including any Indebtedness ranking *pari passu* with any Debentures) or otherwise, or mortgaging, pledging or charging its properties to secure any Indebtedness. Notwithstanding anything contained elsewhere in this Debenture, this Debenture does not restrict any Subsidiary of the Corporation from incurring any Indebtedness, whether secured or unsecured, or whether senior or subordinated.

Section 4.10 Right of Holder of Debenture to Convert Not Impaired.

The subordination of the Debenture to the Senior Indebtedness and the provisions of this Article 4 do not impair in any way the right of the Holder to convert this Debenture pursuant to Article 6.

Section 4.11 Invalidated Payments.

In the event that any of the Senior Indebtedness shall be paid in full and subsequently, for whatever reason, such formerly paid or satisfied Senior Indebtedness becomes unpaid or unsatisfied, the terms and conditions of this Article 4 shall be reinstated and the provisions of this Article shall again be operative until all Senior Indebtedness is repaid in full, provided that such reinstatement shall not give the Senior Creditors any rights or recourses against the Holder for amounts paid to such Holder more than 2 years following payment to the Holder.

Section 4.12 Contesting Security.

The Holder agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Security or Senior Indebtedness, or the relative priority of the Senior Security or Senior Indebtedness.

ARTICLE 5 COVENANTS

Section 5.1 Covenants.

(1) The Corporation hereby covenants and agrees with the Holder, that so long as this Debenture remains outstanding:

- (a) **To Pay Principal, Premium (if any) and Interest, etc.** The Corporation will duly and punctually pay or cause to be paid to the Holder all amounts payable in respect of this Debenture including the Principal Amount of, and interest accrued on, this Debenture on the dates, at the places and in the manner described herein, provided that the Corporation shall be entitled to defer payment of Interest Amounts on this Debenture and to add such deferred payment Interest Amounts to the Payment Amount as provided in Section 2.2(2).

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- (b) **To Give Notice of Default.** The Corporation shall notify the Holder immediately upon obtaining knowledge of any default or Event of Default hereunder.
- (c) **Preservation of Existence, etc.** Subject to the express provisions hereof, the Corporation will carry on and conduct its activities, and cause its Subsidiaries to carry on and conduct their businesses, in a proper and business-like manner, and will do or cause to be done all things necessary to maintain its existence.
- (d) **Keeping of Books.** The Corporation will keep or cause to be kept proper books of record and account, in accordance with generally accepted accounting principles as determined by the Canadian Institute of Chartered Accountants and the International Accounting Standards Board.
- (e) **To Provide Financial Statements.** The Corporation will furnish to the Holder a copy of all consolidated financial statements of the Corporation, whether annual or interim and the report, if any, of the Corporation's auditors thereon.
- (f) **Annual Certificate of Compliance.** The Corporation shall deliver to the Holder, within 120 days after the end of each calendar year, an Officer's Certificate certifying that, after reasonable investigation and inquiry, the Corporation has complied with all covenants, conditions or other requirements contained in this Debenture, the non-compliance with which could, with the giving of notice, lapse of time or otherwise, constitute an Event of Default hereunder, or if such is not the case, setting forth with reasonable particulars the circumstances of any failure to comply and steps taken or proposed to be taken to eliminate such circumstances and remedy such Event of Default, as the case may be.
- (g) **No Distributions on Shares if Event of Default.** The Corporation shall not declare or make any distribution to the holders of its issued and outstanding Shares after the occurrence of a default or an Event of Default unless and until such default shall have been cured or waived or shall have ceased to exist. In addition, the Corporation shall not declare any distribution to the holders of its issued and outstanding Shares if at the time the directors of the Corporation or a committee thereof resolves to make the said declaration, the Corporation has actual knowledge that the paying of said distribution on the applicable distribution payment date will result in a default or an Event of Default.
- (h) **Observer Rights.** In the event that the Principal Amount of this Debenture, together with the principal amount of (at the date of issue) any other unsecured subordinated convertible debenture of the Corporation held by the Holder, is greater than \$25 million, the Holder shall be entitled to nominate one observer to attend all meetings of the board of directors of the Corporation if the Holder does not have a nominee director on the board of directors of the Corporation, and the Corporation shall make such changes in

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its constating documents as are necessary to accommodate the attendance of such observer nominee at meetings of the board of directors of the Corporation.

ARTICLE 6 CONVERSION OF DEBENTURE

Section 6.1 Conversion of Debenture into Shares.

- (1) Upon and subject to the provisions and conditions of this Article 6, all or any part of the Payment Amount of this Debenture, plus accrued but unpaid interest thereon, shall be convertible into Class B Shares, as provided in Section 6.2, at a conversion price of \$10 per Share (the "Conversion Price"), subject to adjustment as provided in Section 6.4 hereof, as follows:
 - (a) by the Holder, at its option, at any time until the Maturity Date (the right of conversion provided in this Section 6.1(1)(a) shall apply up to the Redemption Date notwithstanding that the Corporation has delivered a Redemption Notice to the Holder); and
 - (b) by the Corporation, at its option, at any time until the Maturity Date upon:
 - (i) the occurrence of a Qualified IPO, or
 - (ii) following an initial public offering by the Corporation (other than a Qualified IPO) if the closing price of the Shares on a stock exchange upon which the Shares are listed and traded is at or above \$30 per Share (adjusted in a manner consistent with adjustments made pursuant to Section 6.4), at any time thereafter for a period of 5 consecutive trading days.
- (2) This Debenture shall not be converted in part, unless the Principal Amount converted is at least \$100,000, and all of the Payment Amount, plus accrued but unpaid interest thereon, in respect of such Principal Amount is also converted as part thereof.
- (3) Upon any such conversion which includes the conversion of accrued interest, all such accrued interest shall be considered to have been paid in cash, and immediately upon such payment the full amount of such cash shall be considered to have been applied to the purchase of Class B Shares at the Conversion Price, subject to Section 2.2(3).
- (4) The right of conversion pursuant to this Article 6 shall extend only to the maximum number of whole Shares into which the aggregate Payment Amount of this Debenture, plus accrued but unpaid interest thereon, surrendered for conversion at any one time is divisible and the balance of the Payment Amount shall be paid in accordance with the provisions of Section 6.5.
- (5) In the event the Corporation exercises the conversion right in Section 6.1(1)(b), the Holder hereby irrevocably constitutes and appoints the Corporation as the true and lawful attorney of the Holder to act for and in the name of the Holder, with full power of substitution, to execute and deliver such documents, instruments or agreements and do all acts and things necessary to effect such conversion.

Section 6.2 Manner of Exercise of Right to Convert to Shares.

- (1) The Holder may exercise its rights to convert by sending to the Corporation at its principal address a notice exercising its right to convert in accordance with the provisions of this Article 6; and an acknowledgment, substantially in the form of Schedule 6.2, pursuant to which the Holder shall become a party to the Shareholders' Agreement. Upon the earlier of: (i) expiry of the Withholding Notice Period, or (ii) receipt by the Corporation from the Holder of the Required Withholding Amount, and provided the Corporation has received the notice and acknowledgement, the Holder shall be entered in the books of the Corporation as at the date of conversion as the holder of the number of Shares into which the Debenture is convertible (subject to Section 2.2(3)) and, as soon as practicable, the Corporation shall deliver to the Holder a certificate or certificates for such Shares and, if applicable, a cheque for any amount payable under Section 6.5.
- (2) The Corporation may exercise its right to convert by sending to the Holder a notice exercising its right to convert in accordance with the provisions of this Article 6. Upon the earlier of: (i) expiry of the Withholding Notice Period, or (ii) receipt by the Corporation from the Holder of the Required Withholding Amount, and provided the Holder has executed and delivered to the Corporation an acknowledgement, substantially in the form of Schedule 6.2, pursuant to which the Holder shall become a party to the Shareholders' Agreement, the Holder shall be entered in the books of the Corporation as at the date of conversion as the holder of the number of Shares into which this Debenture is convertible (subject to Section 2.2(3)) and, as soon as practicable, the Corporation shall deliver to the Holder a certificate or certificates for such Shares and, if applicable, a cheque for any amount payable under Section 6.5.

Section 6.3 Shares.

The Shares issued upon a conversion of this Debenture shall only be entitled to receive dividends declared in favour of shareholders of record on and after the date of conversion or such later date as the Holder becomes the holder of record of Shares pursuant to Section 6.2. As of and from the applicable date, the Shares so issued shall, for all purposes, be and be deemed to be issued and outstanding as fully paid and non-assessable Shares.

Section 6.4 Adjustment of Conversion Price.

- (1) The Conversion Price in effect at any date shall be subject to adjustment from time to time as provided in this Section 6.4.
- (2) If the Corporation at any time after the issuance of this Debenture subdivides (by any stock split, stock dividend, recapitalization or otherwise) its outstanding Shares into a greater number of Shares, any Conversion Price in effect immediately prior to such subdivision will be proportionately reduced. If the Corporation at any time after the issuance of this Debenture consolidates (by combination, reverse stock split or otherwise) its outstanding Shares into a smaller number of Shares, any Conversion Price in effect immediately prior to such consolidation will be proportionately increased. Any adjustment under this Section 6.4(2) shall become effective at the close of business on the date the subdivision or consolidation becomes effective.

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- (3) If at any time after the issuance of this Debenture there occurs:
- (a) a reclassification or redesignation of the Shares, any change of the Shares into other shares or securities or any other capital reorganization involving the Shares other than transactions covered by Section 6.4(2);
 - (b) a consolidation, amalgamation or merger of the Corporation with or into any other body corporate, or plan of arrangement involving the Corporation, which results in a reclassification or redesignation of the Shares or any other change or exchange of the Shares into other shares or securities; or
 - (c) the transfer of the undertaking or assets of the Corporation as an entirety or substantially as an entirety to another corporation or entity;
- (any of such events being herein called a "Capital Reorganization"), after the effective date of the Capital Reorganization:
- (d) the Holder will be entitled to receive upon conversion of this Debenture, in lieu of the number of Shares to which the Holder was theretofore entitled upon the conversion of this Debenture, the kind and aggregate number of shares and other securities or property resulting from the Capital Reorganization which the Holder would have been entitled to receive as a result of the Capital Reorganization if, on the effective date thereof, the Holder had been the registered holder of the number of Shares into which the Payment Amount (including all Interest Amounts accruing before or after the date of the Capital Reorganization) would have been convertible on the date of the Capital Reorganization.

If necessary, as a result of any Capital Reorganization, appropriate adjustments will be made in the application of the provisions of this Debenture with respect to the rights and interest thereafter of the Holder to the end that the provisions of this Debenture will thereafter correspondingly be made applicable as nearly as may reasonably be possible in relation to any shares or other securities or property thereafter deliverable upon the conversion of this Debenture.

- (4) If any question arises with respect to the adjustments provided in this Section 6.4, such question shall be conclusively determined by a firm of chartered accountants (who may be the Corporation's auditors) appointed by the Corporation and acceptable to the Holder. Such chartered accountants shall be given access to all necessary records of the Corporation and their determination shall be binding upon the Corporation and the Holder.
- (5) Notwithstanding any other provision contained in this Section 6.4, the property into which this Debenture is, at any time, convertible will be limited to Class B Shares, as presently constituted, or other "prescribed securities" of the Corporation (within the meaning of that term for the purposes of subparagraph 212(1)(b)(vii) of the *Income Tax Act (Canada)* as it is applied to the 2007 taxation year), and being securities which the Holder shall be legally entitled to hold under applicable Laws. In the event that a Holder would otherwise be entitled to any property not described in the preceding

sentence, appropriate arrangements shall be made to ensure that a Holder will be entitled to receive such additional property that is described in the preceding sentence having a fair market value that is equal to the fair market value of the property the Holder would have otherwise been entitled to.

Section 6.5 No Requirement to Issue Fractional Shares.

The Corporation shall not be required to issue fractional Shares upon any conversion. If any fractional interest in a Share would, except for the provisions of this Article 6, be deliverable upon any conversion of this Debenture, the Corporation shall, in lieu of delivering any certificate of fractional interest, and subject to Article 4, satisfy the fractional interest by paying to the Holder an amount of lawful money of Canada equal (computed to the nearest whole cent, and one-half of a cent being rounded up) to the Payment Amount of this Debenture (plus accrued but unpaid interest thereon) remaining outstanding after so much of the Payment Amount (plus accrued but unpaid interest thereon) as may be converted into a whole number of Shares has been so converted.

Section 6.6 Cancellation of Converted Debenture.

This Debenture, if converted in whole under the provisions of this Article 6, shall be forthwith delivered to and cancelled by the Corporation and no Debenture shall be issued in substitution therefor. In the event this Debenture is converted in part, upon surrender of such Debenture for conversion, the Corporation shall execute and deliver without charge to the Holder one or more new Debentures for the part of the Principal Amount not so converted, with the applicable remaining Payment Amount recorded on the Grid of such Debenture or Debentures.

Section 6.7 Certificate as to Adjustment.

The Corporation shall, from time to time immediately after the occurrence of any event which requires an adjustment or re-adjustment as provided in Section 6.4, deliver a certificate of the Corporation to the Holder specifying the nature of the event requiring the same and the amount of the necessary adjustment and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

Section 6.8 Notice of Special Matters.

The Corporation shall give notice to the Holder, in the manner provided in Section 10.3, of its intention to (i) fix a record date for any event mentioned in Section 6.4 which may give rise to an adjustment in the conversion rights or Conversion Price, or (ii) fix a record date for any dividend to be declared on any of the Shares, and the notice shall specify the particulars of the event or dividend and the record date and the effective date for the event or dividend; provided that the Corporation shall only be required to specify in the notice such particulars of the event as shall have been fixed and determined on the date on which such notice is given. Such notice shall be given not less than 25 days prior to the applicable record date.

Section 6.9 Corporation to Reserve Shares.

If the Corporation shall at any time adopt a limited number of authorized and issuable Class B Shares, the Corporation shall at all times thereafter reserve and keep available out of its authorized Shares and solely for the purpose of conversion as in this

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Article 6 provided, and conditionally allot to the Holder, such number of Shares as shall then be issuable upon the conversion. The Corporation covenants with the Holder that all Shares which shall be so issuable shall be duly and validly issued as fully-paid and non-assessable.

Section 6.10 Section 85 Election.

If applicable, at the request of the Holder, the Corporation will jointly elect with the Holder pursuant to section 85 of the Tax Act and the equivalent provisions of any applicable provincial tax statutes in respect of (i) any conversion of all or a portion of this Debenture pursuant to this Article 6, at such "elected amount" as may be determined by the Holder.

Section 6.11 Legends on Shares.

All Share certificates of the Corporation shall bear the following legend conspicuously on their face:

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS AND CONDITIONS OF A UNANIMOUS SHAREHOLDER AGREEMENT AMONG THE SHAREHOLDERS OF DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC., AS AMENDED FROM TIME TO TIME, AND ARE NOT TRANSFERABLE EXCEPT IN COMPLIANCE WITH THAT AGREEMENT."

"THE SHARES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY ACQUIRING SUCH SHARES, AGREES FOR THE BENEFIT OF DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. (THE "CORPORATION") THAT SUCH SHARES MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE CORPORATION, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT AND IN COMPLIANCE WITH APPLICABLE CANADIAN LOCAL LAWS AND REGULATIONS, OR (C) WITHIN THE UNITED STATES IN ACCORDANCE WITH (1) RULE 144 UNDER THE SECURITIES ACT, IF AVAILABLE, AND IN COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS OR (2) PURSUANT TO A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS AND THE SELLER HAS FURNISHED A LEGAL OPINION SATISFACTORY TO THE CORPORATION."

**ARTICLE 7
EVENTS OF DEFAULT**

Section 7.1 Events of Default.

- (1) Each of the following events constitutes, and is herein referred to as, an "Event of Default":
- (a) default in the payment when due (at maturity, upon redemption or otherwise) of the Principal Amount or Payment Amount of this Debenture;
 - (b) default under any other unsecured debenture of the Corporation (whether convertible or not) outstanding, provided such default results in the acceleration of more than \$10 million of such Indebtedness in the aggregate prior to its express maturity;
 - (c) default in the observance or performance of any covenant set out in Section 5.1(1)(a), Section 5.1(1)(b), Section 5.1(1)(c), Section 5.1(1)(d) or Section 8.1 by the Corporation for a period of 30 days after notice in writing has been given to the Corporation by the Holder specifying such default and requiring the Corporation to remedy such default;
 - (d) the Corporation or the Licensee:
 - (i) commences a voluntary case,
 - (ii) consents to the entry of an order for relief against it in an involuntary case,
 - (iii) consents to the appointment of a custodian of it or for all or substantially all of its property,
 - (iv) makes a general assignment for the benefit of its creditors, or
 - (v) is unable to pay its debts as they become due; or
 - (e) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
 - (i) is for relief against the Corporation or the Licensee;
 - (ii) appoints a custodian of the Corporation or the Licensee or for all or substantially all of the property of the Corporation or the Licensee; or
 - (iii) orders the liquidation of the Corporation or the Licensee;
- the order or decree remains unstayed and in effect for 60 consecutive days.

Upon the occurrence of any Event of Default, the Holder may, in its discretion, subject to the provisions of Section 7.2, by notice in writing to the Corporation declare the Payment Amount of and accrued and unpaid interest on this Debenture then outstanding and all

other monies outstanding hereunder to be due and payable and the same shall forthwith become immediately due and payable to the Holder and, subject to Section 4.5, the Corporation shall forthwith pay to the Holder such Payment Amount, accrued and unpaid interest and interest on amounts in default on this Debenture and all other monies outstanding hereunder, together with subsequent interest at the rate borne by this Debenture on such Payment Amount, interest and such other monies from the date of such declaration until payment is received by the Holder, such subsequent interest to be payable at the times and places and in the monies mentioned in and according to the tenor of this Debenture. Such payment when made shall be deemed to have been made in discharge of the Corporation's obligations hereunder.

Section 7.2 Waiver of Default.

- (1) Upon the happening of any Event of Default hereunder, the Holder may, in its discretion, waive any Event of Default and cancel any declaration previously made by it pursuant to Section 7.1(1).
- (2) No such waiver by the Holder shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

Section 7.3 Enforcement by the Holder.

- (1) Subject to the provisions of Article 4 and Section 7.2, if the Corporation shall fail to pay to the Holder, forthwith after the same shall have been declared to be due and payable under Section 7.1(1), the Payment Amount of this Debenture then outstanding, together with any other amounts due hereunder, the Holder may in its discretion obtain or enforce payment of such Payment Amount of this Debenture then outstanding together with any other amounts due hereunder by such proceedings authorized by this Debenture or by suit at law or in equity.
- (2) The Holder shall be entitled to file such proof of debt, amendment of proof of debt, claim, petition or other document as may be necessary or advisable in order to have its claims allowed in any insolvency, bankruptcy, liquidation or other judicial proceedings relative to the Corporation or its creditors or relative to or affecting the Corporation's property.
- (3) The Holder shall also have the power at any time and from time to time to institute and to maintain such suits and proceedings as it may be advised shall be necessary or advisable to preserve and protect its interests.

Section 7.4 Remedies Cumulative.

No remedy herein conferred upon or reserved to the Holder is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now existing or hereafter to exist by law or by statute.

Section 7.5 Immunity of Certain Persons.

The Holder hereby waives and releases any right, cause of action or remedy now or hereafter existing in any jurisdiction against any past, present or future officer or director of the Corporation or holder of Shares of the Corporation or of any successor thereto, for the

payment of the Principal Amount of or interest on this Debenture or for any breach of any covenant, agreement, representation or warranty by the Corporation contained herein.

ARTICLE 8 SUCCESSORS

Section 8.1 Restrictions on Amalgamation, Merger and Sale of Certain Assets, etc.

- (1) Unless the Holder agrees otherwise, the Corporation shall not enter into any transaction or series of transactions whereby all or substantially all of its undertaking, property or assets would become the property of any other Person (herein called a "Successor") whether by way of reorganization, consolidation, amalgamation, arrangement, merger, conveyance, lease, sale or otherwise, unless:
 - (a) prior to or contemporaneously with the consummation of such transaction the Corporation and the Successor shall have executed such instruments and done such things as, in the opinion of Counsel, are necessary or advisable to establish that upon the consummation of such transaction:
 - (i) the Successor will have assumed, in the opinion of counsel, all the covenants and obligations of the Corporation under this Debenture;
 - (ii) this Debenture will be valid and binding obligations of the Successor entitling the Holder, as against the Successor, to all the rights under this Debenture;
 - (iii) the Successor is a corporation, partnership, limited liability Corporation or trust organized or existing under the laws of Canada or any province or territory thereof; and
 - (iv) in the case of an entity organized otherwise than under the laws of the Province of Ontario, the Successor shall attorn to the jurisdiction of the courts of the Province of Ontario;
 - (b) in the case of an entity organized otherwise than under the laws of Canada or a province of Canada, in the opinion of counsel, there will be no material adverse tax consequences to the Holder;
 - (c) such transaction, in the opinion of Counsel, shall be on such terms as to substantially preserve and not impair any of the rights and powers of the Holder hereunder;
 - (d) no condition or event shall exist as to the Corporation (at the time of such transaction) or the Successor (immediately after such transaction), and after giving full effect thereto or immediately thereafter, which shall have caused the Principal Amount or Payment Amount to become due or which constitutes or would with the giving of notice or lapse of time constitute an Event of Default hereunder; and

- (e) the Corporation shall have delivered to the Holder an Officer's Certificate confirming that all requirements of this Article 8 have been complied with in respect of such transaction or series of transactions.

Section 8.2 Vesting of Powers in Successor.

Whenever the conditions of Section 8.1 shall have been duly observed and performed, any Successor formed by or resulting from such transaction or series of transactions shall succeed to, and be substituted for, and may exercise every right and power of the Corporation under, this Debenture with the same effect as though the Successor had been named as the Corporation herein and thereafter, except in the case of a lease or other similar disposition of property to the Successor, the Corporation shall be relieved of all obligations and covenants under this Debenture forthwith upon the Corporation delivering to the Holder an opinion of Counsel to the effect that the transaction or series of transactions shall not result in any material adverse tax consequences to the Corporation or the Successor. The Holder will execute any documents which it may be advised by Counsel are necessary or advisable for effecting or evidencing such release and discharge.

ARTICLE 9 TRANSFER OF DEBENTURE

Section 9.1 Transfers.

- (1) The Corporation will keep at its head office a register (the "Register"); (i) in which will be entered the names and addresses of the Holders of this Debenture and particulars of this Debenture; and (ii) in which all transfers of this Debenture and the date and other particulars of each transfer will be entered. This Register will at all reasonable times be open for inspection by the Holder.
- (2) Upon 20 Business Days prior written notice to the Corporation (or such shorter notice as the Corporation may consent to), the Holder may have all or part of this Debenture transferred to any Person other than a Strategic Competitor, at the place at which the register of transfers is kept pursuant to the provisions of this Section 9.1. This Debenture may only be transferred in accordance with applicable Laws, and upon compliance with the conditions herein, by the Holder or its legal representative or its attorney duly appointed by an instrument in writing, in form and execution satisfactory to the Corporation, upon compliance with such reasonable requirements as the Corporation may prescribe, which may include, without limitation, the provision of an opinion of Counsel to the Corporation or the Holder to the effect that the securities laws of the applicable jurisdiction(s) have been complied with in relation to the transfer of this Debenture, and will be valid only if entered on the register of transfers kept at the office of the Corporation. Upon execution by the Holder and its transferee of the transfer form attached to this Debenture as Schedule 9.1 and surrender of this Debenture, and upon compliance with the reasonable requirements as the Corporation has prescribed, including the opinion of Counsel referred to above, such transfer will be duly noted on the Register by the Corporation. In the event that this Debenture becomes subject to transfer in part only, upon surrender of such Debenture, the Corporation shall execute and deliver without charge to the Holder and its transferee, as applicable, two or more

debentures representing the Principal Amount of such Debenture, with the applicable Payment Amounts recorded on the Grid of each. For greater certainty, in the event this Debenture is transferred in accordance with this Section 9.1(2) or Section 10.2 below and the transferee (in its capacity as Holder of this Debenture) wishes to exercise its right of conversion set out in Article 6, the transferee shall be required, prior to any conversion of this Debenture, to execute an acknowledgement, substantially in the form of Schedule 6.2, pursuant to which the transferee shall become a party to the Shareholders' Agreement.

- (3) The Corporation may treat the registered holder of this Debenture as the absolute holder and owner thereof for all purposes and the Corporation will not be affected or bound by any notice to the contrary, except where the Corporation is required to take notice by statute or by order of a court of competent jurisdiction. Subject to any applicable legislation to the contrary, the Corporation will not be bound to take notice of or see to the execution of any trust, whether express, implied or constructive, in respect of this Debenture, and may transfer this Debenture on the direction of the Holder, whether named as trustee or otherwise, as though that Person were the beneficial holder of this Debenture.

ARTICLE 10 MISCELLANEOUS

Section 10.1 Indemnification.

Subject to Article 4, the Corporation agrees to indemnify the Holder from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (except by reason of the negligence or wilful misconduct of the Holder) which may be imposed on, incurred by, or asserted against the Holder and arising by reason of any action (including any action referred to herein) or inaction or omission to do any act legally required of the Corporation.

Section 10.2 Substitution.

The Holder may at any time, by notice in writing to the Corporation, assign this Debenture, or any of its rights hereunder, to one or more of its Affiliates.

Section 10.3 Notice.

Any notice, direction or other communication (each a "Notice") given regarding the matters contemplated by this Debenture must be in writing, sent by personal delivery, courier or facsimile (but not by electronic mail) and addressed:

To the Holder at:

QCP CW S.A.R.L.
412F route d'Esch
L-1030 Luxembourg
Grand-Duchy of Luxembourg

Attention: Luca Gallinelli
Facsimile: (011) 352-471101

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E-mail: •

With a copy to:

Quadrangle Capital Partners
375 Park Avenue
New York, New York 10152

Attention: Michael Huber
Facsimile: (212) 418-1724
E-mail: Michael.Huber@quadranglegroup.com

With a copy, which shall not constitute notice, to:

McCarthy Tétrault
Suite 5300, TD Bank Tower
Toronto Dominion Centre
Toronto, ON
M5K 1E6

Attention: Andrew Armstrong
Facsimile: (416) 601-8310
E-mail: aarmstro@mccarthy.ca

To the Corporation at:

Suite 2300
Canada Trust Tower, Brookfield Place
161 Bay Street
Toronto, ON
M5J 2S1

Attention: Stewart Lyons
Facsimile: (416) 650-9706
E-mail: Stewart.Lyons@davewireless.com

With a copy, which shall not constitute notice, to:

Stikeman Elliott LLP
Barristers and Solicitors
199 Bay Street
Toronto, Ontario
M5L 1B9

Attention: Dee Rajpal
Facsimile: (416) 947-0866

E-mail: drajpai@stikeman.com

A Notice is deemed to be delivered and received (i) if sent by personal delivery, same-day service courier or e-mail, on the date of delivery if it is a Business Day and the delivery was

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made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day; (ii) if sent by overnight courier, on the next Business Day; or (iii) if sent by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile. The Corporation or the Holder may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Corporation or the Holder at its changed address. Any element of an address that is not specifically changed in a Notice will be assumed not to be changed.

Section 10.4 Time of the Essence.

Time shall be of the essence of this Debenture.

Section 10.5 Third Party Beneficiaries.

This Debenture will not benefit or create any right or cause of action in favour of any Person, other than the Corporation and the Holder or, if applicable, their respective wholly-owned Affiliates, and the Senior Creditors. No Person, other than Corporation and the Holder and such wholly-owned Affiliates, is entitled to rely on the provisions of this Debenture in any action, suit, proceeding, hearing or other forum. The Corporation and the Holder reserve their right to vary or rescind the rights at any time and in any way whatsoever, if any, granted by or under this Debenture to any Person who is not the Corporation or the Holder or their respective wholly-owned Affiliates, without notice or consent of that Person except that the stipulations for the benefit of each of the Senior Creditors set out in this Debenture shall not be revoked or amended without compliance with Section 10.8 of this Debenture.

Section 10.6 No Personal Liability.

The obligations of the Corporation under this Debenture are not personally binding upon any registered or beneficial holder of Shares, any current or former directors, officers or agents of the Corporation, or any annuitant under a plan of which a shareholder of the Corporation acts as trustee or carrier and, resort shall not be had to, nor shall recourse or satisfaction be sought from, any of such Persons or the private property of any such Persons. Any recourse against any of such Persons in any manner in respect of any indebtedness of the Corporation arising hereunder shall be limited to, and satisfied only out of, the assets of the Corporation.

Section 10.7 No Agency or Partnership.

Nothing contained in this Debenture makes or constitutes the Corporation or the Holder, or any of its directors, officers or employees, the representative, agent, principal, partner, joint venturer, employer, employee of any other Person. Neither the Corporation nor the Holder has the capacity to make commitments of any kind or incur obligations or liabilities binding upon the other.

Section 10.8 Amendments.

This Debenture may only be amended, supplemented or otherwise modified by written agreement signed by the Corporation and the Holder, and in addition, if the ECA Loan is in full force and effect at such time, the written agreement of the Agent under the ECA Loan, acting reasonably, shall be required in respect of any, direct or indirect, amendments, supplements or other modifications to the terms set out in Article 4,

Section 6.5, Section 10.1 and Section 10.8 of this Debenture. In the event that the written agreement of the Agent under the ECA Loan is so required, the Corporation shall notify the Agent in writing of the proposed amendment, supplement or other modification, and the Agent shall have ten (10) Business Days following delivery of such notice to notify the Corporation and the Holder in writing of its acceptance or rejection of such proposed amendment, supplement or other modification, failing which the Agent shall be deemed to have accepted the proposed amendment, supplement or other modification set out in the notice.

Section 10.9 Waiver.

- (1) No waiver of any of the provisions of this Debenture will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the Person to be bound by the waiver. A Person's failure or delay in exercising any right under this Debenture will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Person from any other or further exercise of that right or the exercise of any other right.
- (2) If a Person waives compliance with any of the conditions, obligations or covenants contained in this Debenture, 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.

Section 10.10 Entire Agreement.

This Debenture constitutes the entire agreement between the Corporation and the Holder with respect to the transactions contemplated by this Debenture and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, related to the terms and conditions of this Debenture. For greater certainty, in the event this Debenture is transferred in accordance with Section 9.1(2) or Section 10.2 and the transferee (in its capacity as Holder of this Debenture) wishes to exercise its right of conversion set out in Article 6, the transferee shall be required, prior to any conversion of this Debenture, to execute an acknowledgement, substantially in the form of Schedule 6.2, pursuant to which the transferee shall become a party to the Shareholders' Agreement. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise between the Corporation and the Holder in connection with the subject matter of this Debenture, except as specifically set forth in this Debenture. Neither the Corporation nor the Holder has relied or is relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Debenture, except as set out herein.

Section 10.11 Successors and Assigns.

- (1) This Debenture is binding on and enures to the benefit of the Corporation and the Holder and their respective heirs, administrators, executors, legal personal representatives, successors and permitted assigns.
- (2) Except as otherwise provided in this Debenture, neither this Debenture nor any of the rights or obligations under this Debenture are assignable or transferable by the Corporation without the prior written consent of the Holder, nor by the Holder

without the prior written consent of the Corporation, except that all or part of this Debenture may be transferred in accordance with Article 9.

Section 10.12 Further Assurances.

The Corporation and the Holder agree to execute and deliver such further and other papers, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their vote and influence, and do and perform and cause to be done and performed, such further and other acts and things that may be necessary or desirable in order to give full effect to this Debenture and every part thereof.

Section 10.13 Severability.

If any provision of this Debenture is determined to be illegal, invalid or unenforceable, by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Debenture and the remaining provisions will remain in full force and effect.

Section 10.14 Governing Law and Submission to Jurisdiction.

This Debenture, and all matters arising out of or related to this Debenture, shall be governed by, and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable thereto. Any suit, action or proceeding against the Corporation or the Holder arising out of or related to this Debenture shall be brought in the Province of Ontario, and each of the Corporation and the Holder irrevocably and unconditionally attorns and submits to the exclusive jurisdiction of the courts of the Province of Ontario over the subject matter of any such suit, action or proceeding. Each of Corporation and the Holder irrevocably and unconditionally waives any right it may have to trial by jury in respect of any suit, action or proceeding arising out of or related to this Agreement. Each of the Corporation and the Holder irrevocably consents to process being served on it in any suit, action or proceeding related to this Agreement by delivery of a copy thereof in accordance with the provisions of Section 10.3.

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

IN WITNESS WHEREOF the Corporation has caused this Debenture to be signed
by a duly authorized officer as of the date first above written.

DATA & AUDIO-VISUAL
ENTERPRISES HOLDINGS INC.

By: _____
Authorized Signing Officer

SCHEDULE 1.1
DEFINED TERMS

"Affiliate" or "affiliate" means a Person which, directly or indirectly, Controls, is Controlled by, or is under common Control with, another.

"Bankruptcy Law" means the *Bankruptcy and Insolvency Act* (Canada) or the *Companies' Creditors Arrangement Act* (Canada), each as amended, or any similar bankruptcy or insolvency law, and other laws concerning formal or informal moratoria of debt or compositions with creditors, and proceedings seeking reorganization, arrangement, or other relief of debtors.

"Business Day" means any day of the year, other than a Saturday, a Sunday or any day on which banks are required or authorized to close in the City of Toronto or New York City.

"Capital Reorganization" has the meaning specified in Section 6.4(3).

"Class B Shares" means non-voting participating Class B shares of the Corporation, convertible at the option of the holder on a one-to-one basis into Common Shares.

"Common Shares" means common shares of the Corporation, convertible on a one-to-one basis at the option of the holder into Class B Shares.

"Control" (including, with correlative meanings, the terms Controlled by and under common Control with) means the possession of the power, in law or in fact, to direct or cause the direction of the management and policies of a corporation whether through legal and beneficial ownership of a majority of voting securities of such corporation, by agreement or otherwise.

"Conversion Price" has the meaning specified in Section 6.1(1).

"Corporation" has the meaning specified in the introductory paragraph.

"Counsel" means a barrister or solicitor or firm of barristers or solicitors retained or employed by the Holder or retained or employed by the Corporation and in the case of the Corporation, shall be Stikeman Elliott LLP or any other firm of barristers and solicitors of recognized national standing in Canada.

"Debenture" means this secured convertible debenture issued by the Corporation to the Holder.

"Debenture Liabilities" has the meaning specified in Section 4.1(1).

"ECA Loan" means the senior secured EKN credit facility dated October 19, 2009 of up to \$124,888,506 entered into among, inter alia, ING Bank N.V., the Corporation, the Licensee and such other lending institutions that are parties thereto, as it may be amended or amended and restated from time to time.

"Event of Default" has the meaning specified in Section 7.1(1).

"Governmental Entity" means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any court and any government agency, board, commission, tribunal or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.

"Grid" has the meaning specified in Section 2.1(1).

"Holder" means the registered Holder of this Debenture from time to time, as reflected on the Register.

"Interest Amount" has the meaning specified in Section 2.2(2).

"Interest Payment Date" has the meaning specified in Section 2.2(2).

"Indebtedness" of any Person means, without duplication, (i) all obligations of such Person, however incurred, including obligations for borrowed money; (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances, derivatives or other financial products; (iii) all obligations of such Person as a lessee under any capital or similar type leases; (iv) all obligations or liabilities of others secured by a Lien on any asset of such Person, irrespective of whether such obligation or liability is assumed; (v) all obligations of such Person to pay the deferred purchase price of assets; (vi) all obligations of such Person owing under hedge or similar type agreements; and (vii) all obligations of such Person guaranteeing or intended to guarantee (whether directly or indirectly guaranteed, indemnified, endorsed, co-made, discounted, or sold with recourse) any obligation of any other Person that constitutes Indebtedness of such other Person under any of clauses (i) through (vi) above.

"Laws" means applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, statutory rules, principles of common and civil law and equity, terms and conditions of any grant of approval, permission, orders, decrees, rules, regulations and municipal by-laws, whether domestic, foreign or international; (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, rulings, authority, licence, decrees and awards of any Governmental Entity (including the Securities Regulatory Authorities); and (iii) policies, practices and guidelines of any Governmental Entity (including the Securities Regulatory Authorities), which, although not actually having the force of law, are considered by such Governmental Entity as requiring compliance as if having the force of law, in each case binding on or affecting the Person, or the assets of the Person, referred to in the context in which such word is used, and the term "applicable" with respect to such Laws and in the context that refers to one or more Persons, means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Governmental Entity (including the Securities Regulatory Authorities) having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities, in each case as such Laws may be amended from time to time.

"Licensee" means Data & Audio-Visual Enterprises Wireless Inc., the licensee of certain spectrum from Industry Canada, or any assignee of such licensee which is an Affiliate of the Corporation.

"Lien" means any lien, mortgage, charge, hypothec, encumbrance, security interest, pledge, hypothecation, deposit arrangement, priority, conditional sale agreement, other title retention agreement, lease intended as security or which secures payment or performance of an obligation, or other security agreement or instrument.

"Maturity Date" has the meaning specified in Section 2.1(2).

"Notice" has the meaning specified in Section 10.3.

"Officer's Certificate" means a certificate of the Corporation signed by any one authorized officer or director of the Corporation, in his or her capacity as an officer or director of the Corporation and not in his or her personal capacity.

"Payment Amount" has the meaning specified in Section 2.1(1).

"Person" means a natural person, partnership, limited partnership, limited liability partnership, limited liability company, unlimited liability company, corporation, joint stock company, trust, unincorporated association, joint venture or other entity or Governmental Entity, and pronouns have a similarly extended meaning.

"Principal Amount" has the meaning specified in Section 2.1(1).

"Qualified IPO" means a public offering and sale of Shares by way of prospectus for which a final receipt is issued by a securities commission or other similar regulatory authority in Canada, or pursuant to an effective registration statement under the *Securities Act of 1933* of the United States of America, at a minimum offering price of \$30 per Share subject to adjustment in a manner consistent with adjustments to be made pursuant to Section 6.4.

"Redemption Date" has the meaning specified in Section 3.2.

"Redemption Notice" has the meaning specified in Section 3.2.

"Redemption Price" means the amount payable on the Redemption Date, as determined in accordance with Section 3.3.

"Register" has the meaning specified in Section 9.1(1).

"Required Withholding Amount" has the meaning specified in Section 2.2(3).

"Securities Regulatory Authorities" means collectively, the provincial and territorial securities regulatory authority in each of the provinces and territories of Canada, and the Toronto Stock Exchange.

"Senior Creditors" means a holder or holders of Senior Indebtedness and includes any representative or representatives or agent or agents or trustee or trustees of any such holder or holders.

"Senior Indebtedness" means all Indebtedness owing by the Corporation from time to time (i) under the ECA Loan, (ii) under all other existing and future instruments of the Corporation which is secured in any manner by any Liens of any kind, contingent or absolute, (iii) that is senior Indebtedness by operation of applicable Laws, or (iv) renewals, extensions, refinancings or refundings of any such Indebtedness referred to in items (i)-(iii) above; for greater certainty, other than any Indebtedness that is Senior Indebtedness pursuant to items (i)-(iv) above, the following, as applicable, shall *rank pari passu* with the Indebtedness hereunder (A) any obligation of the Corporation to any Subsidiary of the Corporation, or of such Subsidiary to the Corporation or any other Subsidiary of the Corporation (in each case, not including any obligations pursuant to the ECA Loan), (B) any liability for federal, state, provincial, local or other taxes owed or owing by the Corporation, (C) any accounts payable or other liability to trade creditors arising in the ordinary course of business which is not secured (including guarantees thereof or instruments evidencing such liabilities), and (D) any Indebtedness of the Corporation which ranks (or is intended to rank) *pari passu* with the Indebtedness hereunder.

"Senior Security" means all Liens of any kind, contingent or absolute, held by or on behalf of any Senior Creditor and in any manner securing any Senior Indebtedness.

"Shareholders' Agreement" means the unanimous shareholders' agreement among the Corporation and all shareholders of the Corporation, as such agreement may be amended from time to time, and in full force and effect at the relevant time, if at all.

"Shares" means Class B Shares in the capital of the Corporation, and shall, where the context permits, include (i) any securities into which such Shares may be converted, reclassified, redesignated, subdivided, consolidated or otherwise changed; (ii) any securities of the Corporation or of any other Person received by the holders of such Shares as a result of any Capital Reorganization; and (iii) any securities of the Corporation which are received by any one or more Persons as a stock dividend of distribution on or in respect of such Shares.

"Strategic Competitor" with reference to the Corporation or the Licensee, means a Person who is engaged in a Wireless Business where the sale of services in respect of such Wireless Business equals at least 10% of the total annual revenue of such Person and its Affiliates for the most recently completed fiscal year determined on a consolidated basis.

"Subsidiary" means any Person Controlled, directly or indirectly, by the Corporation.

"Successor" has the meaning specified in Section 8.1(1).

"Wireless Business" means the business of providing two-way wireless voice communications and voice telephony services in Canada.

"Withholding Notice Period" has the meaning specified in Section 2.2(3).

SCHEDULE 2.1
PRINCIPAL AMOUNT AND PAYMENT AMOUNT

<u>Date</u>	<u>Principal Amount</u>	<u>Interest Accrued</u>	<u>Payment Amount</u>	<u>Notation Made By</u>
-------------	-----------------------------	-----------------------------	---------------------------	-----------------------------

**SCHEDULE 3.2
NOTICE OF REDEMPTION**

**DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
(the "Corporation")**

TO: The holders of the unsecured convertible debenture issued on [month]
[day], [year]

The Corporation gives notice that, subject to applicable law, it intends to redeem in the aggregate principal amount of \$_____ of the outstanding convertible debentures (the "Redeemed Debentures") in accordance with the terms of the convertible debenture on [month] [day], [year] (the "Redemption Date"). The aggregate redemption price for the Redeemed Debentures is \$_____, which includes all accrued and unpaid interest on the Redeemed Debentures to but excluding the Redemption Date.

REDEMPTION DATE:	_____
NAME OF HOLDER:	_____
PRINCIPAL AMOUNT:	_____
PAYMENT AMOUNT:	_____
ACCRUED AND UNPAID INTEREST: (to but excluding the Redemption Date)	_____
REDEMPTION PRICE:	_____

You are required by the terms of the convertible debenture to surrender the original convertible debenture for cancellation to Data Audio-Visual Enterprises Holdings Inc., Suite 2300, Canada Trust Tower, Brookfield Place, 161 Bay Street, Toronto, ON, M5J 2S1. The Corporation will, upon presentation and surrender of convertible debenture representing the Redeemed Debentures, pay by cheque or in accordance with your wire instructions, the Redemption Price and the accrued and unpaid interest as set forth in the box above.

Your redemption amount will become due and payable by the Corporation on the Redemption Date. Following the Redemption Date, your convertible debenture will no longer be considered outstanding and you will only be entitled to receive your redemption amount. Interest on your debenture will cease to accrue.

DATED [month] [day], [year].

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**DATA & AUDIO VISUAL ENTERPRISES
HOLDINGS INC.**

By: _____

Name:

Title:

SCHEDULE 6.2
SHAREHOLDERS' AGREEMENT ACKNOWLEDGEMENT

TO: Data & Audio-Visual Enterprises Holdings Inc. (the "Corporation") and Each of the Shareholders Thereof

DATE: ●

The undersigned confirms that it has delivered to the Corporation a notice exercising its right to convert \$● principal amount of convertible unsecured debenture (the "Debenture") at a conversion price of \$10 per share, subject to adjustment as provided in Section 6.4 of the Debenture, and upon such conversion, the Corporation shall issue to the undersigned ● Class B shares.

The undersigned hereby agrees to become subject to the terms and conditions of a Unanimous Shareholders Agreement between the Corporation, all of the shareholders of the Corporation and certain other persons (the "USA"), as amended from time to time, to the extent the undersigned is not a shareholder under the USA on the date hereof. The undersigned acknowledges receipt of a copy of the USA.

The undersigned further acknowledges that the ownership of shares of the Corporation is constrained in accordance with the constrained share provisions set out in the Articles of the Corporation pursuant to the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada). The undersigned confirms that it [is/is not] a Canadian with the meaning of Section 2 of such Regulations. A copy of the relevant portions of Section 2 is attached hereto as Appendix "A".

The undersigned's notice details, for purposes of Section 10.03 of the USA, are as follows:

●
Attention: ●
Fax No.: ●

This Acknowledgement is governed by the laws of the Province of Ontario.

This Acknowledgement is delivered as a deed, supported by formal consideration, on the date set out above.

●
By: _____

Name:

Title:

Appendix "A"

Excerpt from Section 2

"Canadian" means

(a) a citizen within the meaning of subsection 2(1) of the Citizenship Act who is ordinarily resident in Canada,

(b) a permanent resident within the meaning of subsection 2(1) of the Immigration Act who is ordinarily resident in Canada, and has been ordinarily resident in Canada for not more than one year after the date on which that person first became eligible to apply for Canadian citizenship,

(c) a Canadian government, whether federal, provincial or local, or an agency thereof,

(d) a corporation without share capital, where a majority of its directors or officers, as the case may be, are appointed or designated, either by their personal names or by their names of office, by one or more of

(i) a federal or provincial statute or regulations made under a federal or provincial statute,

(ii) the Governor in Council or the lieutenant governor in Council of a province, or

(iii) a minister of the Crown in right of Canada or of a province,

(e) a qualified corporation,

(f) a qualified trust

(g) a qualified mutual insurance company,

(h) a qualified partnership, or

(i) a qualified pension fund society. (Canadian)

"qualified corporation" means a corporation in which those of its shareholders who are Canadians beneficially own, and control, in the aggregate and otherwise than by way of security only, not less than 66-2/3 per cent of the issued and outstanding voting shares, and which is not otherwise controlled by non-Canadians; (*personne morale qualifiée*)

"qualified mutual insurance company" means a mutual insurance company the head office and principal place of business of which are in Canada, and not less than 80 per cent of the board and of each committee of its directors of which are individual Canadians; (*société mutuelle d'assurance qualifiée*)

"qualified partnership" means a partnership in which those of its partners who are Canadians beneficially own, and control, in the aggregate and otherwise than by way of security only, not less than 66-2/3 per cent of the beneficial interest in the partnership, and which is not otherwise controlled by non-Canadians; (*société de personnes qualifiée*)

"qualified pension fund society" means a pension fund society the majority of whose members of its board of directors are individual Canadians, and that is established under An Act to Incorporate the Pension Fund Society of the Dominion Bank, S.C. 1887, c. 55; S.C. 1956, c. 66, An Act to Incorporate the Pension Fund Society of the Bank of Montreal, S.C. 1885, c. 13, the Pension Fund Society Act or any provincial legislation relating to the establishment of pension fund societies; (*société de caisse de retraite qualifiée*)

"qualified trust" means a trust in which Canadians have not less than 66-2/3 per cent of the beneficial interest, and of which a majority of the trustees are Canadians; (*fiducie qualifiée*)

SCHEDULE 9.1
DEBENTURE TRANSFER FORM

Unsecured Convertible Debentures dated as of [month] [day], [year] Transfer No. ●

TRANSFER OF DEBENTURE

[name of transferor] sells, assigns and transfers to [name of transferee] [all or \$●] of aggregate Principal Amount of the unsecured convertible debenture dated as of [month] [day], [year] (the "Convertible Debenture") that was issued by Data & Audio-Visual Enterprises Holdings Inc. to [name of transferor]. [name of transferor] acknowledges receipt of good and valuable consideration for the sale, assignment and transfer of the Convertible Debenture and the sufficiency of such consideration. [name of transferee] acknowledges that it is bound by the terms and conditions of the Convertible Debenture and agrees to execute an acknowledgement pursuant to which such transferee will become a party to the Shareholders' Agreement substantially in the form of Schedule 6.2 to the Convertible Debenture, prior to any conversion of the Convertible Debenture into Shares.

Capitalized terms used herein but not otherwise defined shall have the meaning ascribed thereto in the Convertible Debenture.

[NAME OF TRANSFEROR]

By: _____
Name:
Title:

[NAME OF TRANSFEREE]

By: _____
Name:
Title:

**SCHEDULE 3.3(3)
REQUEST FOR ADVANCE**

[Date]

QCP CW S.A.R.L.
412F route d'Esch
L-1030 Luxembourg
Grand-Duchy of Luxembourg

Quadrangle Capital Partners
375 Park Avenue
New York, N.Y. 10152

Attention: Luca Gallinelli and Michael Huber

Ladies and Gentlemen:

The undersigned, Data & Audio-Visual Enterprises Holdings Inc. (the "Company"), refers to the second amended and restated commitment agreement dated April 29, 2011 (as amended from time to time, the "Agreement"), between the Company and QCP CW S.A.R.L. ("Quadrangle"). Capitalized terms used herein have the meanings given to them in the Agreement.

The Company hereby gives you notice, pursuant to Section 3.3(3) of the Agreement, that the Company hereby requests an Advance under the Agreement, on the basis of the following:

- (1) The proposed funding date is [●];
- (2) The amount of the proposed Advance is \$[●];
- (3) The Pro Forma Funding Amount is \$[●];
- (4) The maximum DAVE Funding Amount is \$[●]; and
- (5) The proposed Advance represents a drawdown on the Commitment Amount made available to the Company in accordance with the terms and conditions of the Agreement.

Yours truly,

DATA & AUDIO-VISUAL
ENTERPRISES HOLDINGS INC.

By _____
Authorized Signing Officer

c.c. John Bitove, DAVE Investments

SCHEDULE 3.5(a)
FORM OF CONVERTIBLE DEBENTURES IN RESPECT OF FURTHER ADVANCES

See attached.

SCHEDULE 3.5(b)
FORM OF WARRANT CERTIFICATE

See attached.

Schedule 3.5(a) to Commitment Agreement

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

CONVERTIBLE DEBENTURE

[insert date]

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CONVERTIBLE DEBENTURE

Convertible Debenture dated [insert date] issued by Data & Audio-Visual Enterprises Holdings Inc. (together with its successors and permitted assigns, the "Corporation").

ARTICLE 1 INTERPRETATION

Section 1.1 Defined Terms.

Capitalized terms used in this Debenture and not otherwise defined have the meanings given to them in Schedule 1.1, unless there is something in the subject matter or context inconsistent therewith.

Section 1.2 Headings, etc.

The provision of a Table of Contents, the division of this Debenture into Articles and Sections and the insertion of headings are for convenient reference only and do not affect its interpretation.

Section 1.3 Gender and Number.

Any reference in this Debenture to gender includes all genders. Words importing the singular number also include the plural and *vice versa*.

Section 1.4 Currency.

All references in this Debenture to dollars or to "\$" are to Canadian currency unless otherwise specifically indicated.

Section 1.5 Numerical Expressions.

Numerical expressions in this Debenture follow the international convention whereby a comma (,) separates the thousands and a full stop (.) separates the decimals.

Section 1.6 Certain Phrases.

In this Debenture, (i) the words "including", "includes" and "include" mean "including (or includes or include) without limitation", and (ii) the words "the aggregate of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of". The expressions "Article", "Section" and other subdivision followed by a number mean and refer to the specified Article, Section or other subdivision of the Debenture. In the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

Section 1.7 Statutory References.

Except as otherwise provided in this Debenture, any reference in this Debenture to a statute refers to such statute and all rules and regulations made under it as they may have been or may from time to time be amended, re-enacted or superseded.

Section 1.8 Schedules.

The schedules attached to this Debenture form an integral part of it for all purposes of it.

Section 1.9 Day not a Business Day.

In the event that any calendar day on or before which any action required to be taken hereunder is not a Business Day, then such action shall be required to be taken on or before the requisite time on the next succeeding calendar day that is a Business Day.

**ARTICLE 2
PRINCIPAL AMOUNT AND INTEREST**

Section 2.1 Principal Amount.

- (1) For value received, the Corporation hereby **PROMISES TO PAY** to or to the order of the Holder, the principal amount of [INSERT AMOUNT] (\$●) (such outstanding principal amount (the "Principal Amount"), together with any Interest Amount added pursuant to Section 2.2(2), being collectively, with the Principal Amount, referred to herein, the "Payment Amount") as recorded under the column headed "Payment Amount" on the record (the "Grid") attached as Schedule 2.1 to and forming part of this Debenture, together with interest otherwise accruing on such Payment Amount at the rate, calculated in the manner, and payable at the times and in the manner, specified in this Debenture.
- (2) Subject to the remaining terms and conditions of this Debenture, the Corporation shall pay the Payment Amount to the Holder on September 25, 2018 (the "Maturity Date") in lawful money of Canada on presentation and surrender of this Debenture at the principal office of the Corporation in the Province of Ontario.

Section 2.2 Interest.

- (1) The Payment Amount remaining from time to time unpaid and outstanding shall bear interest, both before and after demand and judgment to the date of the repayment in full of the Payment Amount, at a rate of 12.00% per annum. Interest at such rate shall accrue and be calculated daily on the basis of the actual number of days (including the first day but excluding the last day) elapsed in a year of 365 days or 366 days, as the case may be, and shall be payable as hereinafter set forth in this Section 2.2.
- (2) Interest shall be payable annually on the last Business Day of each anniversary of the date hereof (each an "Interest Payment Date"), commencing [insert date]. On each Interest Payment Date, any accrued and unpaid interest on this Debenture ("Interest Amount") shall be added to the outstanding Payment Amount referred to in Section 2.1(1) and recorded on the Grid under the column headed "Payment Amount", and shall thereafter bear interest itself as referred to in Section 2.1(1) until such time it is paid.
- (3) All amounts payable by the Corporation to a Holder hereunder, including any amounts payable on a conversion, shall, unless otherwise required by applicable Laws, be made free and clear of, and without deduction for any amount in respect of

taxes. If the Corporation shall be required by applicable Laws to deduct or withhold any amount in respect of taxes from or in respect of any amount payable hereunder to a Holder: (i) the Corporation shall make such deductions or withholdings; (ii) the Corporation shall remit the full amount deducted or withheld to the relevant taxing authority in accordance with applicable Laws; and (iii) any payment made under this section by the Corporation to the Holder, including amounts withheld and remitted to the relevant taxing authority pursuant to (i) and (ii) of this section in respect of such payment, shall satisfy and discharge the liability of the Corporation for amounts required to be paid hereunder. If any amount is required to be deducted and withheld in respect of taxes under applicable Laws upon the conversion of this Debenture (whether at the option of the Holder or the Corporation), the Corporation shall provide notice to the Holder of the amount so required to be deducted and withheld (the "Required Withholding Amount") and (i) the Holder shall be entitled to deliver such amount to the Corporation within 10 Business Days of receipt of notice as to such amount (the "Withholding Notice Period"), and the amount so delivered (if equal to the Required Withholding Amount) shall constitute the amount to be deducted, withheld and remitted by the Corporation, or (ii) if the Holder does not provide the Required Withholding Amount to the Corporation prior to the expiry of the Withholding Notice Period, the Corporation shall be entitled to liquidate such number of Class B Shares resulting from such conversion as shall be necessary to produce the Required Withholding Amount. If any other amount payable hereunder is payable by the Corporation otherwise than by the delivery of cash, the Corporation shall be entitled to withhold and liquidate any such non-cash property to the extent necessary to satisfy its withholding and/or remittance obligations in accordance with this Section.

- (4) Notwithstanding anything to the contrary in this Article 2, interest payable on the Maturity Date shall be paid to the Holder in cash as part of the Payment Amount as provided in Section 2.1.

ARTICLE 3 REDEMPTION AND PURCHASE OF DEBENTURE

Section 3.1 Redemption.

- (1) This Debenture will be redeemable in accordance with the terms of this Article 3. On and after the date hereof, this Debenture may be redeemed at the option of the Corporation in whole or in part from time to time before the Maturity Date, on notice as provided for in Section 3.2 and upon payment of the Redemption Price as set out in Section 3.3. For greater certainty and notwithstanding receipt of a Redemption Notice, the Holder shall have the right to exercise its conversion rights pursuant to and in accordance with Article 6 at any time prior to the Redemption Date.
- (2) No Debenture shall be redeemed in part unless the Principal Amount redeemed is \$1,000 or a multiple thereof. In the event that this Debenture becomes subject to redemption in part only, upon surrender of such Debenture for payment of the Redemption Price, the Corporation shall execute and deliver without charge to the Holder one or more new Debentures for the unredeemed part of the Principal

Amount of the Debenture so surrendered, with the applicable Payment Amount recorded and on the Grid of such Debenture or Debentures. Unless the context otherwise requires, the term "Debenture" as used in this Article 3 shall be deemed to mean or include any part of the Payment Amount of the Debenture which in accordance with the foregoing provisions has become subject to redemption but has not yet been redeemed.

Section 3.2 Redemption Notice.

Notice of redemption (the "Redemption Notice") of this Debenture shall be given to the Holder so to be redeemed not more than 60 days nor less than 30 days prior to the date fixed for redemption (the "Redemption Date") in the manner provided in Section 10.3 and in the form of Schedule 3.2. Every Redemption Notice shall specify the aggregate Principal Amount called for redemption, the Redemption Date, the Payment Amount, the Redemption Price and the amount of the accrued and unpaid interest to be paid thereon to but excluding the Redemption Date and the place of payment and shall state that interest upon the Payment Amount of the Debenture called for redemption shall cease to be payable from and after the Redemption Date.

Section 3.3 Redemption Price.

- (1) This Debenture will be redeemable at a Redemption Price equal to the Payment Amount as reflected on the Grid (being, for greater certainty, the Principal Amount and all accrued and unpaid Interest Amounts on this Debenture determined in accordance with Section 2.2), and in addition thereto, at the time of redemption, the Corporation shall pay to the Holder accrued and unpaid interest not included in the Payment Amount, calculated up to but excluding the Redemption Date, such aggregate amount determined pursuant to this Section 3.3(1) being the "Redemption Price".
- (2) Payment of funds to the Holder on the Redemption Date shall be made by electronic transfer to such account as shall be directed in writing by the Holder or pursuant to such other arrangements for the provision of funds as may be agreeable between the Holder and the Corporation in order to effect such redemption payment hereunder. Notwithstanding the foregoing, all payments in excess of \$25 million in Canadian dollars (or such other amount as determined from time to time by the Canadian Payments Association) shall be made by the use of the Large Value Transfer System (LVTS).

Section 3.4 Failure to Surrender Debenture Called for Redemption.

In case the Holder shall fail on or before the Redemption Date to surrender this Debenture, or shall not within such time accept payment of the Redemption Price, such Redemption Price may be set aside in trust with or without interest, and such setting aside shall for all purposes be deemed to be a payment to the Holder of the sum so set aside at that time and, to that extent, the aggregate Payment Amount called for redemption shall thereafter not be considered as outstanding hereunder and the Holder shall have no other right except to receive payment out of the monies so paid and deposited, upon surrender and delivery up of such Holder's Debenture, of the Redemption Price of such Debenture. In the event that any money shall remain so deposited for a period of six years from the Redemption Date, then such monies, together with any accumulated interest thereon, shall

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at the end of such period be returned to the Corporation on its demand, and subject to applicable Laws, thereafter the Holder shall have no rights in respect thereof except to obtain payment of the money due from the Corporation, subject to any limitation period provided by the laws of Ontario.

Section 3.5 Cancellation of Debenture Redeemed.

Subject to the provisions of Section 3.1(2) as to this Debenture redeemed in part, this Debenture redeemed and paid under this Article 3 shall forthwith be delivered to the Corporation and cancelled and no Debenture shall be issued in substitution therefor.

Section 3.6 Purchase of Debenture by the Corporation.

The Corporation may purchase this Debenture in whole or in part by private contract, at any price, provided that, if an Event of Default has occurred and is continuing, the Corporation will not have such right to purchase this Debenture by private contract. This Debenture so purchased shall be delivered to the Corporation and cancelled and no Debenture shall be issued in substitution therefor. In the event only a part of this Debenture is purchased, upon surrender of this Debenture for payment, the Corporation shall execute and deliver without charge to the Holder one or more new Debentures for the part of the Principal Amount of the Debenture so surrendered but not purchased, with the applicable Payment Amount recorded on the Grid on such Debenture or Debentures. Any decision by the Corporation to purchase Debentures by private contract shall be made by the board of directors of the Corporation which shall not include any vote by any nominee director of the Holder.

**ARTICLE 4
SUBORDINATION OF DEBENTURES**

Section 4.1 Rank.

- (1) This Debenture is a direct unsecured obligation of the Corporation. The Indebtedness of the Corporation under this Debenture, whether on account of principal, interest or otherwise (collectively, the "Debenture Liabilities"), shall be fully and effectively subordinated and postponed to the extent and in the manner hereinafter set forth in the following sections of this Article 4, to the full and final payment of all Senior Indebtedness of the Corporation and the Holder agrees to and shall be bound by the provisions of this Article 4. Subject to the foregoing and to statutory exceptions, this Debenture ranks *pari passu* with all other present and future Indebtedness of the Corporation which by its terms is subordinated in rank to Senior Indebtedness.
- (2) The Senior Indebtedness shall continue to be Senior Indebtedness and shall be entitled to the benefits of this Article 4 irrespective of any amendment, modification or waiver of any term (other than a release, discharge or other event that results in the applicable Indebtedness no longer being Senior Indebtedness) of such Senior Indebtedness and notwithstanding that no express written subordination agreement may have been entered into between the holders of such Senior Indebtedness and the Holder.

- (3) Upon request of the Corporation and upon being furnished with evidence satisfactory to the Holder, acting reasonably, that one or more named Persons are holders of Senior Indebtedness, or is the representative or representatives of such holders, or is the trustee or trustees under which any instrument evidencing such Senior Indebtedness may have been issued, and specifying the amount and nature of such Senior Indebtedness, the Holder shall enter into a written agreement or agreements with such Persons to more fully specify the terms and conditions of the subordination set out in this Debenture. Such agreement or agreements shall be conclusive evidence that the Indebtedness specified therein is Senior Indebtedness, provided that nothing therein shall affect the subordination provisions contained herein or impair the rights of any holder of Senior Indebtedness who has not entered into such an agreement to rely upon and enforce such subordination provisions.

Section 4.2 Order of Payments.

- (1) In the event of any voluntary or involuntary dissolution, winding-up or liquidation, or any bankruptcy, insolvency, receivership, creditor enforcement or realization or other similar proceedings relating to the Corporation or any of its property (whether voluntary or involuntary, partial or complete) or any other marshalling of the assets and liabilities of the Corporation, any reorganization or any sale, distribution or other transfer of all or substantially all of the assets of the Corporation:
- (a) all Senior Indebtedness shall first be paid in full, or provision made for such payment, before any payment or distribution is made on account of the Debenture Liabilities;
 - (b) any payment or distribution of assets of the Corporation, whether in cash, property or securities, to which the Holder would be entitled except for the provisions of this Article 4, shall be paid or delivered by the trustee in bankruptcy, receiver, assignee for the benefit of creditors, or other liquidating agent making such payment or distribution, directly to the holders of Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Senior Indebtedness may have been issued, to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness before any payment or distribution is made to the Holder; and
 - (c) the Senior Creditors or a receiver or a receiver-manager of the Corporation or of all or part of its assets or any other enforcement agent may sell, mortgage, or otherwise dispose of the Corporation's assets in whole or in part, free and clear of all Debenture Liabilities and without the approval of the Holder or any requirement to account to the Holder, except in respect of any excess after discharge of all Senior Indebtedness.

The rights and priority of the Senior Indebtedness and the subordination pursuant hereto shall not be affected by :

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- (i) the time, sequence or order of creating, granting, executing, delivering of, or registering, perfecting or failing to register or perfect any security notice, caveat, financing statement or other notice in respect of the Senior Security;
- (ii) the time or order of the attachment, perfection or crystallization of any security constituted by the Senior Security;
- (iii) the taking of any collection, enforcement or realization proceedings pursuant to the Senior Indebtedness;
- (iv) the date of obtaining of any judgment or order of any bankruptcy court or any court administering bankruptcy, insolvency or similar proceedings as to the entitlement of the Senior Creditors, or any of them or the Holder or any of them to any money or property of the Corporation;
- (v) the failure to exercise any power or remedy reserved to the Senior Creditors under documents evidencing the Senior Indebtedness or under the Senior Security or to insist upon a strict compliance with any terms thereof;
- (vi) whether any Senior Security is now perfected, hereafter ceases to be perfected, is avoidable by any trustee in bankruptcy or like official or is otherwise set aside, invalidated or lapses;
- (vii) the date of giving or failing to give notice to or making demand upon the Corporation; or
- (viii) any other matter whatsoever.

Section 4.3 Subrogation to Rights of Holders of Senior Indebtedness.

- (1) Subject to the irrevocable and unconditional prior payment in full of all Senior Indebtedness, the Holder shall be subrogated to the rights of the holders of Senior Indebtedness or their representative or representatives, or the trustee or trustees under any indenture pursuant to which any instrument evidencing any such Senior Indebtedness may have been issued, to receive payments or distributions of assets of the Corporation to the extent of the application thereto of such payments or other assets which would have been received by the Holder but for the provisions hereof until the Principal Amount of, and interest on, this Debenture shall be paid in full, and no such payments or distributions to the Holder of cash, property or securities, which otherwise would be payable or distributable to the holders of the Senior Indebtedness, shall, as between the Corporation, its creditors other than the holders of Senior Indebtedness, and the Holder, be deemed to be a payment by the Corporation to the holders of the Senior Indebtedness or on account of the Senior Indebtedness, it being understood that the provisions of this Article 4 are and are intended solely for the purpose of defining the relative rights of the Holder, on the one hand, and the holders of Senior Indebtedness, on the other hand.

- (2) The Holder hereby waives any and all rights to require a Senior Creditor to pursue or exhaust any rights or remedies with respect to the Corporation or any property and assets subject to the Senior Security or in any other manner to require the marshalling of property, assets or security in connection with the exercise by the Senior Creditors of any rights, remedies or recourses available to them.

Section 4.4 Obligation to Pay Not Impaired.

Nothing contained in this Article 4 or elsewhere in this Debenture is intended to or shall impair, as between the Corporation, its creditors other than the holders of Senior Indebtedness, and the Holder, the obligation of the Corporation, which is absolute and unconditional, to pay to the Holder the Payment Amount of, including unpaid Interest Amounts on, this Debenture, as and when the same shall become due and payable in accordance with its terms, or affect the relative rights of the Holder and creditors of the Corporation other than the holders of the Senior Indebtedness, nor shall anything herein or therein prevent the Holder from exercising all remedies otherwise permitted by applicable Laws or under this Debenture upon default under this Debenture, subject to the rights, if any, under this Article 4 of the holders of Senior Indebtedness.

Section 4.5 No Payment if Senior Indebtedness in Default.

- (1) No payment of any Principal Amount of, or interest (or any other amounts payable) in respect of, this Debenture or in respect of any Redemption Price may be made, and the Holder will not be entitled to institute proceedings (other than as may be necessary to preserve a limitation period) for the collection of, or receive any payment or benefit (including, without limitation, by setoff, combination of accounts or realization of security or otherwise in any manner whatsoever) on account of, Indebtedness represented by this Debenture:
- (a) in a manner inconsistent with the terms (as they exist on the date of issue) of this Debenture;
 - (b) at any time when an event of default has occurred under Senior Indebtedness, and such event of default is continuing and notice of such event of default has been given by or on behalf of the holders of such Senior Indebtedness to the Corporation unless and until such Senior Indebtedness has been paid and satisfied in full or such event of default shall have been cured or waived in writing in accordance with the provisions of such Senior Indebtedness; or
 - (c) if the making of any such payment or the taking of any such action would create, by the lapse of time or giving of notice, an event of default under any Senior Indebtedness unless and until such Senior Indebtedness has been satisfied in full or the making of any such payment or taking of such action would no longer create, by the lapse of time or giving of notice, an event of default under any Senior Indebtedness.
- (2) If, notwithstanding any other provisions herein, the Holder receives any payment when such payment should have been paid to the holders of Senior Indebtedness pursuant to Section 4.2(1)(b) or when payment under this Debenture is prohibited by

Section 4.5(1), as the case may be, but not otherwise, such payment shall be held in trust for the benefit of, and shall be paid or delivered to, the holders of the Senior Indebtedness or their respective representative or representatives, or to the trustee or trustees under which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Corporation, to the extent necessary to pay such Senior Indebtedness in full, in cash, after giving effect to any other concurrent payment or distribution to or for the benefit of the holders of such Senior Indebtedness.

Section 4.6 Payment on Debentures Permitted.

Nothing contained in this Article 4 or elsewhere in this Debenture shall affect the obligation of the Corporation to make, or prevent the Corporation from making, at any time except as prohibited by Section 4.5, any payment of Payment Amount of, or interest on, this Debenture, including as part of any Redemption Price. The fact that any such payment is prohibited by Section 4.5 shall not prevent the failure to make such payment from being an Event of Default hereunder. Nothing contained in this Article 4 or elsewhere in this Debenture shall prevent the conversion of this Debenture or, except as prohibited by Section 4.7, the application by the Holder of any monies deposited with the Holder hereunder for the purpose, to the payment of or on account of the Debenture Liabilities.

Section 4.7 Rights of Holders of Senior Indebtedness Not Impaired.

No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Corporation or by any non-compliance by the Corporation with the terms, provisions and covenants of this Debenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

Section 4.8 Altering the Senior Indebtedness.

The holders of the Senior Indebtedness have the right to extend, renew, modify, supplement, amend or amend and restate the terms of the Senior Indebtedness or any security therefor and to release, sell or exchange such security and otherwise to deal freely with the Corporation, all without notice to or consent of the Holder and without affecting the provisions of this Article 4 or the other liabilities and obligations of the parties to this Debenture or the holders of Debentures.

Section 4.9 Additional Indebtedness.

This Debenture does not restrict the Corporation from incurring additional Senior Indebtedness or other Indebtedness for borrowed money (including any Indebtedness ranking *pari passu* with any Debentures) or otherwise, or mortgaging, pledging or charging its properties to secure any Indebtedness. Notwithstanding anything contained elsewhere in this Debenture, this Debenture does not restrict any Subsidiary of the Corporation from incurring any Indebtedness, whether secured or unsecured, or whether senior, *pari passu* or subordinated.

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Section 4.10 Right of Holder of Debenture to Convert Not Impaired.

The subordination of the Debenture to the Senior Indebtedness and the provisions of this Article 4 do not impair in any way the right of the Holder to convert this Debenture pursuant to Article 6.

Section 4.11 Invalidated Payments.

In the event that any of the Senior Indebtedness shall be paid in full and subsequently, for whatever reason, such formerly paid or satisfied Senior Indebtedness becomes unpaid or unsatisfied, the terms and conditions of this Article 4 shall be reinstated and the provisions of this Article shall again be operative until all Senior Indebtedness is repaid in full, provided that such reinstatement shall not give the Senior Creditors any rights or recourses against the Holder for amounts paid to such Holder more than 2 years following payment to the Holder.

Section 4.12 Contesting Security.

The Holder agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Security or Senior Indebtedness, or the relative priority of the Senior Security or Senior Indebtedness.

**ARTICLE 5
COVENANTS****Section 5.1 Covenants.**

- (1) The Corporation hereby covenants and agrees with the Holder, that so long as this Debenture remains outstanding:
 - (a) **To Pay Principal, Premium (if any) and Interest, etc.** The Corporation will duly and punctually pay or cause to be paid to the Holder all amounts payable in respect of this Debenture including the Principal Amount of, and interest accrued on, this Debenture on the dates, at the places and in the manner described herein, provided that the Corporation shall be entitled to defer payment of Interest Amounts on this Debenture and to add such deferred payment Interest Amounts to the Payment Amount as provided in Section 2.2(2).
 - (b) **To Give Notice of Default.** The Corporation shall notify the Holder immediately upon obtaining knowledge of any default or Event of Default hereunder.
 - (c) **Preservation of Existence, etc.** Subject to the express provisions hereof, the Corporation will carry on and conduct its activities, and cause its Subsidiaries to carry on and conduct their businesses, in a proper and business-like manner, and will do or cause to be done all things necessary to maintain its existence.
 - (d) **Keeping of Books.** The Corporation will keep or cause to be kept proper books of record and account, in accordance with generally accepted

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accounting principles as determined by the Canadian Institute of Chartered Accountants and the International Accounting Standards Board.

- (e) **To Provide Financial Statements.** The Corporation will furnish to the Holder a copy of all consolidated financial statements of the Corporation, whether annual or interim and the report, if any, of the Corporation's auditors thereon.
- (f) **Annual Certificate of Compliance.** The Corporation shall deliver to the Holder, within 120 days after the end of each calendar year, an Officer's Certificate certifying that, after reasonable investigation and inquiry, the Corporation has complied with all covenants, conditions or other requirements contained in this Debenture, the non-compliance with which could, with the giving of notice, lapse of time or otherwise, constitute an Event of Default hereunder, or if such is not the case, setting forth with reasonable particulars the circumstances of any failure to comply and steps taken or proposed to be taken to eliminate such circumstances and remedy such Event of Default, as the case may be.
- (g) **No Distributions on Shares if Event of Default.** The Corporation shall not declare or make any distribution to the holders of its issued and outstanding Shares after the occurrence of a default or an Event of Default unless and until such default shall have been cured or waived or shall have ceased to exist. In addition, the Corporation shall not declare any distribution to the holders of its issued and outstanding Shares if at the time the directors of the Corporation or a committee thereof resolves to make the said declaration, the Corporation has actual knowledge that the paying of said distribution on the applicable distribution payment date will result in a default or an Event of Default.
- (h) **Observer Rights.** In the event that the Principal Amount of this Debenture, together with the principal amount of (at the date of issue) any other unsecured subordinated convertible debenture of the Corporation held by the Holder, is greater than \$25 million, the Holder shall be entitled to nominate one observer to attend all meetings of the board of directors of the Corporation if the Holder does not have a nominee director on the board of directors of the Corporation, and the Corporation shall make such changes in its constating documents as are necessary to accommodate the attendance of such observer nominee at meetings of the board of directors of the Corporation.

ARTICLE 6 CONVERSION OF DEBENTURE

Section 6.1 Conversion of Debenture into Shares.

- (1) Upon and subject to the provisions and conditions of this Article 6, all or any part of the Payment Amount of this Debenture, plus accrued but unpaid interest thereon, shall be convertible into Class B Shares, as provided in Section 6.2, at a conversion

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price of \$10 per Share (the "Conversion Price"), subject to adjustment as provided in Section 6.4 hereof, as follows:

- (a) by the Holder, at its option, at any time until the Maturity Date (the right of conversion provided in this Section 6.1(1)(a) shall apply up to the Redemption Date notwithstanding that the Corporation has delivered a Redemption Notice to the Holder); and
 - (b) by the Corporation, at its option, at any time until the Maturity Date upon:
 - (i) the occurrence of a Qualified IPO, or
 - (ii) following an initial public offering by the Corporation (other than a Qualified IPO) if the closing price of the Shares on a stock exchange upon which the Shares are listed and traded is at or above \$30 per Share (adjusted in a manner consistent with adjustments made pursuant to Section 6.4), at any time thereafter for a period of 5 consecutive trading days.
- (2) This Debenture shall not be converted in part, unless the Principal Amount converted is at least \$100,000, and all of the Payment Amount, plus accrued but unpaid interest thereon, in respect of such Principal Amount is also converted as part thereof.
 - (3) Upon any such conversion which includes the conversion of accrued interest, all such accrued interest shall be considered to have been paid in cash, and immediately upon such payment the full amount of such cash shall be considered to have been applied to the purchase of Class B Shares at the Conversion Price, subject to Section 2.2(3).
 - (4) The right of conversion pursuant to this Article 6 shall extend only to the maximum number of whole Shares into which the aggregate Payment Amount of this Debenture, plus accrued but unpaid interest thereon, surrendered for conversion at any one time is divisible and the balance of the Payment Amount shall be paid in accordance with the provisions of Section 6.5.
 - (5) In the event the Corporation exercises the conversion right in Section 6.1(1)(b), the Holder hereby irrevocably constitutes and appoints the Corporation as the true and lawful attorney of the Holder to act for and in the name of the Holder, with full power of substitution, to execute and deliver such documents, instruments or agreements and do all acts and things necessary to effect such conversion.

Section 6.2 Manner of Exercise of Right to Convert to Shares.

- (1) The Holder may exercise its rights to convert by sending to the Corporation at its principal address a notice exercising its right to convert in accordance with the provisions of this Article 6; and an acknowledgment, substantially in the form of Schedule 6.2, pursuant to which the Holder shall become a party to the Shareholders' Agreement. Upon the earlier of: (i) expiry of the Withholding Notice Period, or (ii) receipt by the Corporation from the Holder of the Required Withholding Amount, and provided the Corporation has received the notice and acknowledgement, the Holder shall be entered in the books of the Corporation as at the date of conversion as the holder of the number of Shares into which the

Debenture is convertible (subject to Section 2.2(3)) and, as soon as practicable, the Corporation shall deliver to the Holder a certificate or certificates for such Shares and, if applicable, a cheque for any amount payable under Section 6.5.

- (2) The Corporation may exercise its right to convert by sending to the Holder a notice exercising its right to convert in accordance with the provisions of this Article 6. Upon the earlier of: (i) expiry of the Withholding Notice Period, or (ii) receipt by the Corporation from the Holder of the Required Withholding Amount, and provided the Holder has executed and delivered to the Corporation an acknowledgement, substantially in the form of Schedule 6.2, pursuant to which the Holder shall become a party to the Shareholders' Agreement, the Holder shall be entered in the books of the Corporation as at the date of conversion as the holder of the number of Shares into which this Debenture is convertible (subject to Section 2.2(3)) and, as soon as practicable, the Corporation shall deliver to the Holder a certificate or certificates for such Shares and, if applicable, a cheque for any amount payable under Section 6.5.

Section 6.3 Shares.

The Shares issued upon a conversion of this Debenture shall only be entitled to receive dividends declared in favour of shareholders of record on and after the date of conversion or such later date as the Holder becomes the holder of record of Shares pursuant to Section 6.2. As of and from the applicable date, the Shares so issued shall, for all purposes, be and be deemed to be issued and outstanding as fully paid and non-assessable Shares.

Section 6.4 Adjustment of Conversion Price.

- (1) The Conversion Price in effect at any date shall be subject to adjustment from time to time as provided in this Section 6.4.
- (2) If the Corporation at any time after the issuance of this Debenture subdivides (by any stock split, stock dividend, recapitalization or otherwise) its outstanding Shares into a greater number of Shares, any Conversion Price in effect immediately prior to such subdivision will be proportionately reduced. If the Corporation at any time after the issuance of this Debenture consolidates (by combination, reverse stock split or otherwise) its outstanding Shares into a smaller number of Shares, any Conversion Price in effect immediately prior to such consolidation will be proportionately increased. Any adjustment under this Section 6.4(2) shall become effective at the close of business on the date the subdivision or consolidation becomes effective.
- (3) If at any time after the issuance of this Debenture there occurs:
 - (a) a reclassification or redesignation of the Shares, any change of the Shares into other shares or securities or any other capital reorganization involving the Shares other than transactions covered by Section 6.4(2);
 - (b) a consolidation, amalgamation or merger of the Corporation with or into any other body corporate, or plan of arrangement involving the Corporation,

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which results in a reclassification or redesignation of the Shares or any other change or exchange of the Shares into other shares or securities; or

- (c) the transfer of the undertaking or assets of the Corporation as an entirety or substantially as an entirety to another corporation or entity;

(any of such events being herein called a "Capital Reorganization"), after the effective date of the Capital Reorganization:

- (d) the Holder will be entitled to receive upon conversion of this Debenture, in lieu of the number of Shares to which the Holder was theretofore entitled upon the conversion of this Debenture, the kind and aggregate number of shares and other securities or property resulting from the Capital Reorganization which the Holder would have been entitled to receive as a result of the Capital Reorganization if, on the effective date thereof, the Holder had been the registered holder of the number of Shares into which the Payment Amount (including all Interest Amounts accruing before or after the date of the Capital Reorganization) would have been convertible on the date of the Capital Reorganization.

If necessary, as a result of any Capital Reorganization, appropriate adjustments will be made in the application of the provisions of this Debenture with respect to the rights and interest thereafter of the Holder to the end that the provisions of this Debenture will thereafter correspondingly be made applicable as nearly as may reasonably be possible in relation to any shares or other securities or property thereafter deliverable upon the conversion of this Debenture.

- (4) If any question arises with respect to the adjustments provided in this Section 6.4, such question shall be conclusively determined by a firm of chartered accountants (who may be the Corporation's auditors) appointed by the Corporation and acceptable to the Holder. Such chartered accountants shall be given access to all necessary records of the Corporation and their determination shall be binding upon the Corporation and the Holder.
- (5) Notwithstanding any other provision contained in this Section 6.4, the property into which this Debenture is, at any time, convertible will be limited to Class B Shares, as presently constituted, or other "prescribed securities" of the Corporation (within the meaning of that term for the purposes of subparagraph 212(1)(b)(vii) of the *Income Tax Act (Canada)* as it is applied to the 2007 taxation year), and being securities which the Holder shall be legally entitled to hold under applicable Laws. In the event that a Holder would otherwise be entitled to any property not described in the preceding sentence, appropriate arrangements shall be made to ensure that a Holder will be entitled to receive such additional property that is described in the preceding sentence having a fair market value that is equal to the fair market value of the property the Holder would have otherwise been entitled to.

Section 6.5 No Requirement to Issue Fractional Shares.

The Corporation shall not be required to issue fractional Shares upon any conversion. If any fractional interest in a Share would, except for the provisions of this

Article 6, be deliverable upon any conversion of this Debenture, the Corporation shall, in lieu of delivering any certificate of fractional interest, and subject to Article 4, satisfy the fractional interest by paying to the Holder an amount of lawful money of Canada equal (computed to the nearest whole cent, and one-half of a cent being rounded up) to the Payment Amount of this Debenture (plus accrued but unpaid interest thereon) remaining outstanding after so much of the Payment Amount (plus accrued but unpaid interest thereon) as may be converted into a whole number of Shares has been so converted.

Section 6.6 Cancellation of Converted Debenture.

This Debenture, if converted in whole under the provisions of this Article 6, shall be forthwith delivered to and cancelled by the Corporation and no Debenture shall be issued in substitution therefor. In the event this Debenture is converted in part, upon surrender of such Debenture for conversion, the Corporation shall execute and deliver without charge to the Holder one or more new Debentures for the part of the Principal Amount not so converted, with the applicable remaining Payment Amount recorded on the Grid of such Debenture or Debentures.

Section 6.7 Certificate as to Adjustment.

The Corporation shall, from time to time immediately after the occurrence of any event which requires an adjustment or re-adjustment as provided in Section 6.4, deliver a certificate of the Corporation to the Holder specifying the nature of the event requiring the same and the amount of the necessary adjustment and setting forth in reasonable detail the method of calculation and the facts upon which such calculation is based.

Section 6.8 Notice of Special Matters.

The Corporation shall give notice to the Holder, in the manner provided in Section 10.3, of its intention to (i) fix a record date for any event mentioned in Section 6.4 which may give rise to an adjustment in the conversion rights or Conversion Price, or (ii) fix a record date for any dividend to be declared on any of the Shares, and the notice shall specify the particulars of the event or dividend and the record date and the effective date for the event or dividend; provided that the Corporation shall only be required to specify in the notice such particulars of the event as shall have been fixed and determined on the date on which such notice is given. Such notice shall be given not less than 25 days prior to the applicable record date.

Section 6.9 Corporation to Reserve Shares.

If the Corporation shall at any time adopt a limited number of authorized and issuable Class B Shares, the Corporation shall at all times thereafter reserve and keep available out of its authorized Shares and solely for the purpose of conversion as in this Article 6 provided, and conditionally allot to the Holder, such number of Shares as shall then be issuable upon the conversion. The Corporation covenants with the Holder that all Shares which shall be so issuable shall be duly and validly issued as fully-paid and non-assessable.

Section 6.10 Section 85 Election.

If applicable, at the request of the Holder, the Corporation will jointly elect with the Holder pursuant to section 85 of the Tax Act and the equivalent provisions of any applicable

provincial tax statutes in respect of (i) any conversion of all or a portion of this Debenture pursuant to this Article 6, at such "elected amount" as may be determined by the Holder.

Section 6.11 Legends on Shares.

All Share certificates of the Corporation shall bear the following legend conspicuously on their face:

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS AND CONDITIONS OF A UNANIMOUS SHAREHOLDER AGREEMENT AMONG THE SHAREHOLDERS OF DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC., AS AMENDED FROM TIME TO TIME, AND ARE NOT TRANSFERABLE EXCEPT IN COMPLIANCE WITH THAT AGREEMENT."

"THE SHARES REPRESENTED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED, (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY ACQUIRING SUCH SHARES, AGREES FOR THE BENEFIT OF DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. (THE "CORPORATION") THAT SUCH SHARES MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE CORPORATION, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT AND IN COMPLIANCE WITH APPLICABLE CANADIAN LOCAL LAWS AND REGULATIONS, OR (C) WITHIN THE UNITED STATES IN ACCORDANCE WITH (1) RULE 144 UNDER THE SECURITIES ACT, IF AVAILABLE, AND IN COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS OR (2) PURSUANT TO A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS AND THE SELLER HAS FURNISHED A LEGAL OPINION SATISFACTORY TO THE CORPORATION."

ARTICLE 7 EVENTS OF DEFAULT

Section 7.1 Events of Default.

- (1) Each of the following events constitutes, and is herein referred to as, an "Event of Default":
 - (a) default in the payment when due (at maturity, upon redemption or otherwise) of the Principal Amount or Payment Amount of this Debenture;
 - (b) default under any other unsecured debenture of the Corporation (whether convertible or not) outstanding, provided such defaults results in the

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acceleration of more than \$10 million of such Indebtedness in the aggregate prior to its express maturity;

- (c) default in the observance or performance of any covenant set out in Section 5.1(1)(a), Section 5.1(1)(b), Section 5.1(1)(c), Section 5.1(1)(d) or Section 8.1 by the Corporation for a period of 30 days after notice in writing has been given to the Corporation by the Holder specifying such default and requiring the Corporation to remedy such default;
- (d) the Corporation or the Licensee:
 - (i) commences a voluntary case,
 - (ii) consents to the entry of an order for relief against it in an involuntary case,
 - (iii) consents to the appointment of a custodian of it or for all or substantially all of its property,
 - (iv) makes a general assignment for the benefit of its creditors, or
 - (v) is unable to pay its debts as they become due; or
- (e) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:
 - (i) is for relief against the Corporation or the Licensee;
 - (ii) appoints a custodian of the Corporation or the Licensee or for all or substantially all of the property of the Corporation or the Licensee; or
 - (iii) orders the liquidation of the Corporation or the Licensee;

the order or decree remains unstayed and in effect for 60 consecutive days.

Upon the occurrence of any Event of Default, the Holder may, in its discretion, subject to the provisions of Section 7.2, by notice in writing to the Corporation declare the Payment Amount of and accrued and unpaid interest on this Debenture then outstanding and all other monies outstanding hereunder to be due and payable and the same shall forthwith become immediately due and payable to the Holder and, subject to Section 4.5, the Corporation shall forthwith pay to the Holder such Payment Amount, accrued and unpaid interest and interest on amounts in default on this Debenture and all other monies outstanding hereunder, together with subsequent interest at the rate borne by this Debenture on such Payment Amount, interest and such other monies from the date of such declaration until payment is received by the Holder, such subsequent interest to be payable at the times and places and in the monies mentioned in and according to the tenor of this Debenture. Such payment when made shall be deemed to have been made in discharge of the Corporation's obligations hereunder.

Section 7.2 Waiver of Default.

- (1) Upon the happening of any Event of Default hereunder, the Holder may, in its discretion, waive any Event of Default and cancel any declaration previously made by it pursuant to Section 7.1(1).
- (2) No such waiver by the Holder shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or the rights resulting therefrom.

Section 7.3 Enforcement by the Holder.

- (1) Subject to the provisions of Article 4 and Section 7.2, if the Corporation shall fail to pay to the Holder, forthwith after the same shall have been declared to be due and payable under Section 7.1(1), the Payment Amount of this Debenture then outstanding, together with any other amounts due hereunder, the Holder may in its discretion obtain or enforce payment of such Payment Amount of this Debenture then outstanding together with any other amounts due hereunder by such proceedings authorized by this Debenture or by suit at law or in equity.
- (2) The Holder shall be entitled to file such proof of debt, amendment of proof of debt, claim, petition or other document as may be necessary or advisable in order to have its claims allowed in any insolvency, bankruptcy, liquidation or other judicial proceedings relative to the Corporation or its creditors or relative to or affecting the Corporation's property.
- (3) The Holder shall also have the power at any time and from time to time to institute and to maintain such suits and proceedings as it may be advised shall be necessary or advisable to preserve and protect its interests.

Section 7.4 Remedies Cumulative.

No remedy herein conferred upon or reserved to the Holder is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now existing or hereafter to exist by law or by statute.

Section 7.5 Immunity of Certain Persons.

The Holder hereby waives and releases any right, cause of action or remedy now or hereafter existing in any jurisdiction against any past, present or future officer or director of the Corporation or holder of Shares of the Corporation or of any successor thereto, for the payment of the Principal Amount of or interest on this Debenture or for any breach of any covenant, agreement, representation or warranty by the Corporation contained herein.

**ARTICLE 8
SUCCESSORS****Section 8.1 Restrictions on Amalgamation, Merger and Sale of Certain Assets, etc.**

- (1) Unless the Holder agrees otherwise, the Corporation shall not enter into any transaction or series of transactions whereby all or substantially all of its undertaking, property or assets would become the property of any other Person

(herein called a "Successor") whether by way of reorganization, consolidation, amalgamation, arrangement, merger, conveyance, lease, sale or otherwise, unless:

- (a) prior to or contemporaneously with the consummation of such transaction the Corporation and the Successor shall have executed such instruments and done such things as, in the opinion of Counsel, are necessary or advisable to establish that upon the consummation of such transaction:
 - (i) the Successor will have assumed, in the opinion of counsel, all the covenants and obligations of the Corporation under this Debenture;
 - (ii) this Debenture will be valid and binding obligations of the Successor entitling the Holder, as against the Successor, to all the rights under this Debenture;
 - (iii) the Successor is a corporation, partnership, limited liability Corporation or trust organized or existing under the laws of Canada or any province or territory thereof; and
 - (iv) in the case of an entity organized otherwise than under the laws of the Province of Ontario, the Successor shall attorn to the jurisdiction of the courts of the Province of Ontario;
- (b) in the case of an entity organized otherwise than under the laws of Canada or a province of Canada, in the opinion of counsel, there will be no material adverse tax consequences to the Holder;
- (c) such transaction, in the opinion of Counsel, shall be on such terms as to substantially preserve and not impair any of the rights and powers of the Holder hereunder;
- (d) no condition or event shall exist as to the Corporation (at the time of such transaction) or the Successor (immediately after such transaction), and after giving full effect thereto or immediately thereafter, which shall have caused the Principal Amount or Payment Amount to become due or which constitutes or would with the giving of notice or lapse of time constitute an Event of Default hereunder; and
- (e) the Corporation shall have delivered to the Holder an Officer's Certificate confirming that all requirements of this Article 8 have been complied with in respect of such transaction or series of transactions.

Section 8.2 Vesting of Powers in Successor.

Whenever the conditions of Section 8.1 shall have been duly observed and performed, any Successor formed by or resulting from such transaction or series of transactions shall succeed to, and be substituted for, and may exercise every right and power of the Corporation under, this Debenture with the same effect as though the Successor had been named as the Corporation herein and thereafter, except in the case of a lease or other similar disposition of property to the Successor, the Corporation shall be

relieved of all obligations and covenants under this Debenture forthwith upon the Corporation delivering to the Holder an opinion of Counsel to the effect that the transaction or series of transactions shall not result in any material adverse tax consequences to the Corporation or the Successor. The Holder will execute any documents which it may be advised by Counsel are necessary or advisable for effecting or evidencing such release and discharge.

ARTICLE 9 TRANSFER OF DEBENTURE

Section 9.1 Transfers.

- (1) The Corporation will keep at its head office a register (the "Register"): (i) in which will be entered the names and addresses of the Holders of this Debenture and particulars of this Debenture; and (ii) in which all transfers of this Debenture and the date and other particulars of each transfer will be entered. This Register will at all reasonable times be open for inspection by the Holder.
- (2) Upon 20 Business Days prior written notice to the Corporation (or such shorter notice as the Corporation may consent to), the Holder may have all or part of this Debenture transferred to any Person other than a Strategic Competitor, at the place at which the register of transfers is kept pursuant to the provisions of this Section 9.1. This Debenture may only be transferred in accordance with applicable Laws, and upon compliance with the conditions herein, by the Holder or its legal representative or its attorney duly appointed by an instrument in writing, in form and execution satisfactory to the Corporation, upon compliance with such reasonable requirements as the Corporation may prescribe, which may include, without limitation, the provision of an opinion of Counsel to the Corporation or the Holder to the effect that the securities laws of the applicable jurisdiction(s) have been complied with in relation to the transfer of this Debenture, and will be valid only if entered on the register of transfers kept at the office of the Corporation. Upon execution by the Holder and its transferee of the transfer form attached to this Debenture as Schedule 9.1 and surrender of this Debenture, and upon compliance with the reasonable requirements as the Corporation has prescribed, including the opinion of Counsel referred to above, such transfer will be duly noted on the Register by the Corporation. In the event that this Debenture becomes subject to transfer in part only, upon surrender of such Debenture, the Corporation shall execute and deliver without charge to the Holder and its transferee, as applicable, two or more debentures representing the Principal Amount of such Debenture, with the applicable Payment Amounts recorded on the Grid of each. For greater certainty, in the event this Debenture is transferred in accordance with this Section 9.1(2) or Section 10.2 below and the transferee (in its capacity as Holder of this Debenture) wishes to exercise its right of conversion set out in Article 6, the transferee shall be required, prior to any conversion of this Debenture, to execute an acknowledgement, substantially in the form of Schedule 6.2, pursuant to which the transferee shall become a party to the Shareholders' Agreement.
- (3) The Corporation may treat the registered holder of this Debenture as the absolute holder and owner thereof for all purposes and the Corporation will not be affected

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or bound by any notice to the contrary, except where the Corporation is required to take notice by statute or by order of a court of competent jurisdiction. Subject to any applicable legislation to the contrary, the Corporation will not be bound to take notice of or see to the execution of any trust, whether express, implied or constructive, in respect of this Debenture, and may transfer this Debenture on the direction of the Holder, whether named as trustee or otherwise, as though that Person were the beneficial holder of this Debenture.

ARTICLE 10 MISCELLANEOUS

Section 10.1 Indemnification.

Subject to Article 4, the Corporation agrees to indemnify the Holder from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (except by reason of the negligence or wilful misconduct of the Holder) which may be imposed on, incurred by, or asserted against the Holder and arising by reason of any action (including any action referred to herein) or inaction or omission to do any act legally required of the Corporation.

Section 10.2 Substitution.

The Holder may at any time, by notice in writing to the Corporation, assign this Debenture, or any of its rights hereunder, to one or more of its Affiliates.

Section 10.3 Notice.

Any notice, direction or other communication (each a "Notice") given regarding the matters contemplated by this Debenture must be in writing, sent by personal delivery, courier or facsimile (but not by electronic mail) and addressed:

To the Holder at:

QCP CW S.A.R.L.
412F route d'Esch
L-1030 Luxembourg
Grand-Duchy of Luxembourg

Attention: Luca Gallinelli
Facsimile: (011) 352-471101
E-mail: ●

With a copy to:

Quadrangle Capital Partners
375 Park Avenue
New York, New York 10152

Attention: Michael Huber
Facsimile: (212) 418-1724
E-mail: Michael.Huber@quadranglegroup.com

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With a copy, which shall not constitute notice, to:

McCarthy Tétrault
Suite 5300, TD Bank Tower
Toronto Dominion Centre
Toronto, ON
M5K 1B6

Attention: Andrew Armstrong
Facsimile: (416) 601-8310
E-mail: aarmstro@mccarthy.ca

To the Corporation at:

Suite 2300
Canada Trust Tower, Brookfield Place
161 Bay Street
Toronto, ON
M5J 2S1

Attention: Stewart Lyons
Facsimile: (416) 650-9706
E-mail: Stewart.Lyons@davewireless.com

With a copy, which shall not constitute notice, to:

Stikeman Elliott LLP
Barristers and Solicitors
199 Bay Street
Toronto, Ontario
M5L 1B9

Attention: Dee Rajpal
Facsimile: (416) 947-0866

E-mail: drajp@stikeman.com

A Notice is deemed to be delivered and received (i) if sent by personal delivery, same-day service courier or e-mail, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day; (ii) if sent by overnight courier, on the next Business Day; or (iii) if sent by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile. The Corporation or the Holder may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Corporation or the Holder at its changed address. Any element of an address that is not specifically changed in a Notice will be assumed not to be changed.

Section 10.4 Time of the Essence.

Time shall be of the essence of this Debenture.

Section 10.5 Third Party Beneficiaries.

This Debenture will not benefit or create any right or cause of action in favour of any Person, other than the Corporation and the Holder or, if applicable, their respective wholly-owned Affiliates, and the Senior Creditors. No Person, other than Corporation and the Holder and such wholly-owned Affiliates, is entitled to rely on the provisions of this Debenture in any action, suit, proceeding, hearing or other forum. The Corporation and the Holder reserve their right to vary or rescind the rights at any time and in any way whatsoever, if any, granted by or under this Debenture to any Person who is not the Corporation or the Holder or their respective wholly-owned Affiliates, without notice to or consent of that Person except that the stipulations for the benefit of each of the Senior Creditors set out in this Debenture shall not be revoked or amended without compliance with Section 10.8 of this Debenture.

Section 10.6 No Personal Liability.

The obligations of the Corporation under this Debenture are not personally binding upon any registered or beneficial holder of Shares, any current or former directors, officers or agents of the Corporation, or any annuitant under a plan of which a shareholder of the Corporation acts as trustee or carrier and, resort shall not be had to, nor shall recourse or satisfaction be sought from, any of such Persons or the private property of any such Persons. Any recourse against any of such Persons in any manner in respect of any indebtedness of the Corporation arising hereunder shall be limited to, and satisfied only out of, the assets of the Corporation.

Section 10.7 No Agency or Partnership.

Nothing contained in this Debenture makes or constitutes the Corporation or the Holder, or any of its directors, officers or employees, the representative, agent, principal, partner, joint venturer, employer, employee of any other Person. Neither the Corporation nor the Holder has the capacity to make commitments of any kind or incur obligations or liabilities binding upon the other.

Section 10.8 Amendments.

This Debenture may only be amended, supplemented or otherwise modified by written agreement signed by the Corporation and the Holder, and in addition, if the First Lien Note Indenture is in full force and effect at such time, the written agreement of the Collateral Agent under the First Lien Note Indenture, acting reasonably, shall be required in respect of any, direct or indirect, amendments, supplements or other modifications to the terms set out in Article 4, Section 6.5, Section 10.1 and Section 10.8 of this Debenture. In the event that the written agreement of the Collateral Agent under the First Lien Note Indenture is so required, the Corporation shall notify the Collateral Agent in writing of the proposed amendment, supplement or other modification, and the Collateral Agent shall have ten (10) Business Days following delivery of such notice to notify the Corporation and the Holder in writing of its acceptance or rejection of such proposed amendment, supplement or other modification, failing which the Agent shall be deemed to have accepted the proposed amendment, supplement or other modification set out in the notice.

Section 10.9 Waiver.

- (1) No waiver of any of the provisions of this Debenture will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the Person to be bound by the waiver. A Person's failure or delay in exercising any right under this Debenture will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Person from any other or further exercise of that right or the exercise of any other right.
- (2) If a Person waives compliance with any of the conditions, obligations or covenants contained in this Debenture, 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.

Section 10.10 Entire Agreement.

This Debenture constitutes the entire agreement between the Corporation and the Holder with respect to the transactions contemplated by this Debenture and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, related to the terms and conditions of this Debenture. For greater certainty, in the event this Debenture is transferred in accordance with Section 9.1(2) or Section 10.2 and the transferee (in its capacity as Holder of this Debenture) wishes to exercise its right of conversion set out in Article 6, the transferee shall be required, prior to any conversion of this Debenture, to execute an acknowledgement, substantially in the form of Schedule 6.2, pursuant to which the transferee shall become a party to the Shareholders' Agreement. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise between the Corporation and the Holder in connection with the subject matter of this Debenture, except as specifically set forth in this Debenture. Neither the Corporation nor the Holder has relied or is relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Debenture, except as set out herein.

Section 10.11 Successors and Assigns.

- (1) This Debenture is binding on and enures to the benefit of the Corporation and the Holder and their respective heirs, administrators, executors, legal personal representatives, successors and permitted assigns.
- (2) Except as otherwise provided in this Debenture, neither this Debenture nor any of the rights or obligations under this Debenture are assignable or transferable by the Corporation without the prior written consent of the Holder, nor by the Holder without the prior written consent of the Corporation, except that all or part of this Debenture may be transferred in accordance with Article 9.

Section 10.12 Further Assurances.

The Corporation and the Holder agree to execute and deliver such further and other papers, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their vote and influence, and do and perform and cause to be done and performed, such further and other acts and things that may be necessary or desirable in order to give full effect to this Debenture and every part thereof.

Section 10.13 Severability.

If any provision of this Debenture is determined to be illegal, invalid or unenforceable, by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Debenture and the remaining provisions will remain in full force and effect.

Section 10.14 Governing Law and Submission to Jurisdiction.

This Debenture, and all matters arising out of or related to this Debenture, shall be governed by, and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable thereto. Any suit, action or proceeding against the Corporation or the Holder arising out of or related to this Debenture shall be brought in the Province of Ontario, and each of the Corporation and the Holder irrevocably and unconditionally attorns and submits to the exclusive jurisdiction of the courts of the Province of Ontario over the subject matter of any such suit, action or proceeding. Each of Corporation and the Holder irrevocably and unconditionally waives any right it may have to trial by jury in respect of any suit, action or proceeding arising out of or related to this Agreement. Each of the Corporation and the Holder irrevocably consents to process being served on it in any suit, action or proceeding related to this Agreement by delivery of a copy thereof in accordance with the provisions of Section 10.3.

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

IN WITNESS WHEREOF the Corporation has caused this Debenture to be signed
by a duly authorized officer as of the date first above written.

**DATA & AUDIO-VISUAL
ENTERPRISES HOLDINGS INC.**

By: _____
Authorized Signing Officer

SCHEDULE 1.1
DEFINED TERMS

"Affiliate" or "affiliate" means a Person which, directly or indirectly, Controls, is Controlled by, or is under common Control with, another.

"Bankruptcy Law" means the *Bankruptcy and Insolvency Act* (Canada) or the *Companies' Creditors Arrangement Act* (Canada), each as amended, or any similar bankruptcy or insolvency law, and other laws concerning formal or informal moratoria of debt or compositions with creditors, and proceedings seeking reorganization, arrangement, or other relief of debtors.

"Business Day" means any day of the year, other than a Saturday, a Sunday or any day on which banks are required or authorized to close in the City of Toronto or New York City.

"Capital Reorganization" has the meaning specified in Section 6.4(3).

"Class B Shares" means non-voting participating Class B shares of the Corporation, convertible at the option of the holder on a one-to-one basis into Common Shares.

"Collateral Agent" means the collateral agent appointed under the First Lien Note Indenture.

"Commitment Agreement" means the second amended and restated commitment agreement dated May 9, 2011, among the Company, QCP CW S.A.R.L and Data & Audio-Visual Enterprises Investments Inc., as it may be amended or amended and restated from time to time;

"Common Shares" means common shares of the Corporation, convertible on a one-to-one at the option of the holder into Class B Shares.

"Control" (including, with correlative meanings, the terms Controlled by and under common Control with) means the possession of the power, in law or in fact, to direct or cause the direction of the management and policies of a corporation whether through legal and beneficial ownership of a majority of voting securities of such corporation, by agreement or otherwise.

"Conversion Price" has the meaning specified in Section 6.1(1).

"Corporation" has the meaning specified in the introductory paragraph.

"Counsel" means a barrister or solicitor or firm of barristers or solicitors retained or employed by the Holder or retained or employed by the Corporation and in the case of the Corporation, shall be Stikeman Elliott LLP or any other firm of barristers and solicitors of recognized national standing in Canada.

"Debenture" means this secured convertible debenture issued by the Corporation to the Holder.

"Debenture Liabilities" has the meaning specified in Section 4.1(1).

"Event of Default" has the meaning specified in Section 7.1(1).

"First Lien Note Indenture" means the indenture dated as of May ●, 2011, governing the First Lien Senior Secured Notes.

"First Lien Senior Secured Notes" means the 9.5% first lien senior secured notes due ●, 2018, issued by the Licensee and guaranteed by the Company.

"Governmental Entity" means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any court and any government agency, board, commission, tribunal or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.

"Grid" has the meaning specified in Section 2.1(1).

"Holder" means the registered Holder of this Debenture from time to time, as reflected on the Register.

"Interest Amount" has the meaning specified in Section 2.2(2).

"Interest Payment Date" has the meaning specified in Section 2.2(2).

"Indebtedness" of any Person means, without duplication, (i) all obligations of such Person, however incurred, including obligations for borrowed money; (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments and all reimbursement or other obligations in respect of letters of credit, bankers acceptances, derivatives or other financial products; (iii) all obligations of such Person as a lessee under any capital or similar type leases; (iv) all obligations or liabilities of others secured by a Lien on any asset of such Person, irrespective of whether such obligation or liability is assumed; (v) all obligations of such Person to pay the deferred purchase price of assets; (vi) all obligations of such Person owing under hedge or similar type agreements; and (vii) all obligations of such Person guaranteeing or intended to guarantee (whether directly or indirectly guaranteed, indemnified, endorsed, co-made, discounted, or sold with recourse) any obligation of any other Person that constitutes Indebtedness of such other Person under any of clauses (i) through (vi) above.

"Laws" means applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, statutory rules, principles of common and civil law and equity, terms and conditions of any grant of approval, permission, orders, decrees, rules, regulations and municipal by-laws, whether domestic, foreign or international; (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, rulings, authority, licence, decrees and awards of any Governmental Entity (including the Securities Regulatory Authorities); and (iii) policies, practices and guidelines of any Governmental Entity (including the Securities Regulatory Authorities), which, although not actually having the force of law, are considered by such Governmental Entity as requiring compliance as if having the force of law, in each case binding on or affecting the Person, or the assets of the Person, referred to in the context in which such word is used, and the term "applicable" with respect to such Laws and in the context that refers to one or more Persons,

means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Governmental Entity (including the Securities Regulatory Authorities) having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities, in each case as such Laws may be amended from time to time.

"Licensee" means Data & Audio-Visual Enterprises Wireless Inc., the licensee of certain spectrum from Industry Canada, or any assignee of such licensee which is an Affiliate of the Corporation.

"Lien" means any lien, mortgage, charge, hypothec, encumbrance, security interest, pledge, hypothecation, deposit arrangement, priority, conditional sale agreement, other title retention agreement, lease intended as security or which secures payment or performance of an obligation, or other security agreement or instrument.

"Maturity Date" has the meaning specified in Section 2.1(2).

"Notice" has the meaning specified in Section 10.3.

"Officer's Certificate" means a certificate of the Corporation signed by any one authorized officer or director of the Corporation, in his or her capacity as an officer or director of the Corporation and not in his or her personal capacity.

"Payment Amount" has the meaning specified in Section 2.1(1)

"Person" means a natural person, partnership, limited partnership, limited liability partnership, limited liability company, unlimited liability company, corporation, joint stock company, trust, unincorporated association, joint venture or other entity or Governmental Entity, and pronouns have a similarly extended meaning.

"Principal Amount" has the meaning specified in Section 2.1(1).

"Qualified IPO" means a public offering and sale of Shares by way of prospectus for which a final receipt is issued by a securities commission or other similar regulatory authority in Canada, or pursuant to an effective registration statement under the *Securities Act of 1933* of the United States of America, at a minimum offering price of \$30 per Share subject to adjustment in a manner consistent with adjustments to be made pursuant to Section 6.4.

"Redemption Date" has the meaning specified in Section 3.2.

"Redemption Notice" has the meaning specified in Section 3.2.

"Redemption Price" means the amount payable on the Redemption Date, as determined in accordance with Section 3.3.

"Register" has the meaning specified in Section 9.1(1).

"Required Withholding Amount" has the meaning specified in Section 2.2(3).

"Securities Regulatory Authorities" means collectively, the provincial and territorial securities regulatory authority in each of the provinces and territories of Canada, and the Toronto Stock Exchange.

"Senior Creditors" means a holder or holders of Senior Indebtedness and includes any representative or representatives or agent or agents or trustee or trustees of any such holder or holders.

"Senior Indebtedness" means all Indebtedness owing by the Corporation from time to time (i) under the First Lien Note Indenture and the Subordinated Debenture Indenture, (ii) under the Commitment Agreement provided the aggregate principal amount (as opposed to payment amount) of convertible debentures issued thereunder that are considered to be "Senior Indebtedness" is no more than \$60 million, (iii) under all other existing and future instruments of the Corporation which is secured in any manner by any Liens of any kind, contingent or absolute, (iv) that is senior Indebtedness by operation of applicable Laws, (v) renewals, extensions, refinancings or refundings of any such Indebtedness referred to in items (i)-(iv) above, (vi) any obligation of the Corporation to any Subsidiary of the Corporation, or of such Subsidiary to the Corporation or any other Subsidiary of the Corporation, (vii) any liability for federal, state, provincial, local or other taxes owed or owing by the Corporation, or (viii) any accounts payable or other liability to trade creditors arising in the ordinary course of business which is not secured (including guarantees thereof or instruments evidencing such liabilities).

"Senior Security" means all Liens of any kind, contingent or absolute, held by or on behalf of any Senior Creditor and in any manner securing any Senior Indebtedness.

"Series 2009 Debentures" means up to \$95 million principal amount of the series 2009 15.0% senior unsecured debentures due September 15, 2018.

"Shareholders' Agreement" means the unanimous shareholders' agreement among the Corporation and all shareholders of the Corporation, as such agreement may be amended from time to time, and in full force and effect at the relevant time, if at all.

"Shares" means Class B Shares in the capital of the Corporation, and shall, where the context permits, include (i) any securities into which such Shares may be converted, reclassified, redesignated, subdivided, consolidated or otherwise changed; (ii) any securities of the Corporation or of any other Person received by the holders of such Shares as a result of any Capital Reorganization; and (iii) any securities of the Corporation which are received by any one or more Persons as a stock dividend or distribution on or in respect of such Shares.

"Strategic Competitor" with reference to the Corporation or the Licensee, means a Person who is engaged in a Wireless Business where the sale of services in respect of such Wireless Business equals at least 10% of the total annual revenue of such Person and its Affiliates for the most recently completed fiscal year determined on a consolidated basis.

"Subordinated Debenture Indenture" means the amended and restated trust indenture dated as of May 9, 2011, governing the Series 2009 Debentures.

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"Subsidiary" means any Person Controlled, directly or indirectly, by the Corporation.

"Successor" has the meaning specified in Section 8.1(1).

"Wireless Business" means the business of providing two-way wireless voice communications and voice telephony services in Canada.

"Withholding Notice Period" has the meaning specified in Section 2.2(3).

SCHEDULE 2.1
PRINCIPAL AMOUNT AND PAYMENT AMOUNT

<u>Date</u>	<u>Principal Amount</u>	<u>Interest Accrued</u>	<u>Payment Amount</u>	<u>Notation Made By</u>
-------------	-----------------------------	-----------------------------	---------------------------	-----------------------------

**SCHEDULE 3.2
NOTICE OF REDEMPTION**

**DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
(the "Corporation")**

TO: The holders of the unsecured convertible debenture issued on [month]
[day], [year]

The Corporation gives notice that, subject to applicable law, it intends to redeem in the aggregate principal amount of \$_____ of the outstanding convertible debentures (the "Redeemed Debentures") in accordance with the terms of the convertible debenture on [month] [day], [year] (the "Redemption Date"). The aggregate redemption price for the Redeemed Debentures is \$_____, which includes all accrued and unpaid interest on the Redeemed Debentures to but excluding the Redemption Date.

REDEMPTION DATE:	_____
NAME OF HOLDER:	_____
PRINCIPAL AMOUNT:	_____
PAYMENT AMOUNT:	_____
ACCRUED AND UNPAID INTEREST: (to but excluding the Redemption Date)	_____
REDEMPTION PRICE:	_____

You are required by the terms of the convertible debenture to surrender the original convertible debenture for cancellation to Data Audio-Visual Enterprises Holdings Inc., Suite 2300, Canada Trust Tower, Brookfield Place, 161 Bay Street, Toronto, ON, M5J 2S1. The Corporation will, upon presentation and surrender of convertible debenture representing the Redeemed Debentures, pay by cheque or in accordance with your wire instructions, the Redemption Price and the accrued and unpaid interest as set forth in the box above.

Your redemption amount will become due and payable by the Corporation on the Redemption Date. Following the Redemption Date, your convertible debenture will no longer be considered outstanding and you will only be entitled to receive your redemption amount. Interest on your debenture will cease to accrue.

DATED [month] [day], [year].

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**DATA & AUDIO VISUAL ENTERPRISES
HOLDINGS INC.**

By: _____
Name:
Title:

SCHEDULE 6.2
SHAREHOLDERS' AGREEMENT ACKNOWLEDGEMENT

TO: Data & Audio-Visual Enterprises Holdings Inc. (the "Corporation") and Each of the Shareholders Thereof

DATE: ●

The undersigned confirms that it has delivered to the Corporation a notice exercising its right to convert \$● principal amount of convertible unsecured debenture (the "Debenture") at a conversion price of \$10 per share, subject to adjustment as provided in Section 6.4 of the Debenture, and upon such conversion, the Corporation shall issue to the undersigned ● Class B shares.

The undersigned hereby agrees to become subject to the terms and conditions of a Unanimous Shareholders Agreement between the Corporation, all of the shareholders of the Corporation and certain other persons (the "USA"), as amended from time to time, to the extent the undersigned is not a shareholder under the USA on the date hereof. The undersigned acknowledges receipt of a copy of the USA.

The undersigned further acknowledges that the ownership of shares of the Corporation is constrained in accordance with the constrained share provisions set out in the Articles of the Corporation pursuant to the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada). The undersigned confirms that it [is/is not] a Canadian with the meaning of Section 2 of such Regulations. A copy of the relevant portions of Section 2 is attached hereto as Appendix "A".

The undersigned's notice details, for purposes of Section 10.03 of the USA, are as follows:

●

Attention: ●

Fax No.: ●

This Acknowledgement is governed by the laws of the Province of Ontario.

This Acknowledgement is delivered as a deed, supported by formal consideration, on the date set out above.

●

By: _____

Name: _____

Title: _____

Appendix "A"

Excerpt from Section 2

"Canadian" means

- (a) a citizen within the meaning of subsection 2(1) of the Citizenship Act who is ordinarily resident in Canada,
- (b) a permanent resident within the meaning of subsection 2(1) of the Immigration Act who is ordinarily resident in Canada, and has been ordinarily resident in Canada for not more than one year after the date on which that person first became eligible to apply for Canadian citizenship,
- (c) a Canadian government, whether federal, provincial or local, or an agency thereof,
- (d) a corporation without share capital, where a majority of its directors or officers, as the case may be, are appointed or designated, either by their personal names or by their names of office, by one or more of
 - (i) a federal or provincial statute or regulations made under a federal or provincial statute,
 - (ii) the Governor in Council or the lieutenant governor in Council of a province, or
 - (iii) a minister of the Crown in right of Canada or of a province,
- (e) a qualified corporation,
- (f) a qualified trust
- (g) a qualified mutual insurance company,
- (h) a qualified partnership, or
- (i) a qualified pension fund society. (Canadian)

"qualified corporation" means a corporation in which those of its shareholders who are Canadians beneficially own, and control, in the aggregate and otherwise than by way of security only, not less than 66-2/3 per cent of the issued and outstanding voting shares, and which is not otherwise controlled by non-Canadians; (*personne morale qualifiée*)

"qualified mutual insurance company" means a mutual insurance company the head office and principal place of business of which are in Canada, and not less than 80 per cent of the board and of each committee of its directors of which are individual Canadians; (*société mutuelle d'assurance qualifiée*)

"qualified partnership" means a partnership in which those of its partners who are Canadians beneficially own, and control, in the aggregate and otherwise than by way of security only, not less than 66-2/3 per cent of the beneficial interest in the partnership, and which is not otherwise controlled by non-Canadians; (*société de personnes qualifiée*)

"qualified pension fund society" means a pension fund society the majority of whose members of its board of directors are individual Canadians, and that is established under An Act to Incorporate the Pension Fund Society of the Dominion Bank, S.C. 1887, c. 55; S.C. 1956, c. 66, An Act to Incorporate the Pension Fund Society of the Bank of Montreal, S.C. 1885, c. 13, the Pension Fund Society Act or any provincial legislation relating to the establishment of pension fund societies; (*société de caisse de retraite qualifiée*)

"qualified trust" means a trust in which Canadians have not less than 66-2/3 per cent of the beneficial interest, and of which a majority of the trustees are Canadians; (*fiducie qualifiée*)

SCHEDULE 9.1
DEBENTURE TRANSFER FORM

Unsecured Convertible Debentures dated as of [month] [day], [year] Transfer No. ●

TRANSFER OF DEBENTURE

[name of transferor] sells, assigns and transfers to [name of transferee] [all or \$●] of aggregate Principal Amount of the unsecured convertible debenture dated as of [month] [day], [year] (the "Convertible Debenture") that was issued by Data & Audio-Visual Enterprises Holdings Inc. to [name of transferor]. [name of transferor] acknowledges receipt of good and valuable consideration for the sale, assignment and transfer of the Convertible Debenture and the sufficiency of such consideration. [name of transferee] acknowledges that it is bound by the terms and conditions of the Convertible Debenture and agrees to execute an acknowledgement pursuant to which such transferee will become a party to the Shareholders' Agreement substantially in the form of Schedule 6.2 to the Convertible Debenture, prior to any conversion of the Convertible Debenture into Shares.

Capitalized terms used herein but not otherwise defined shall have the meaning ascribed thereto in the Convertible Debenture.

[NAME OF TRANSFEROR]

By: _____
Name:
Title:

[NAME OF TRANSFEREE]

By: _____
Name:
Title:

Schedule 3.5(b) to Commitment Agreement

**DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
WARRANT CERTIFICATE**

Certificate No. Q-●

● Warrants

"UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY AND ANY SECURITIES ISSUED UPON EXERCISE OR CONVERSION OF THESE SECURITIES MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) [INSERT THE DISTRIBUTION DATE], AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY."

"THE SECURITIES REPRESENTED HEREBY AND ANY SECURITIES ISSUABLE UPON EXERCISE OR CONVERSION OF THESE SECURITIES HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT") OR ANY STATE SECURITIES LAWS. THE HOLDER HEREOF, BY ACQUIRING SUCH SECURITIES, AGREES FOR THE BENEFIT OF DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. (THE "COMPANY"), THAT SUCH SECURITIES MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE COMPANY, (B) OUTSIDE THE UNITED STATES IN ACCORDANCE WITH RULE 904 OF REGULATION S UNDER THE SECURITIES ACT AND IN COMPLIANCE WITH APPLICABLE CANADIAN LOCAL LAWS AND REGULATIONS, OR (C) WITHIN THE UNITED STATES IN ACCORDANCE WITH (1) RULE 144 UNDER THE SECURITIES ACT, IF AVAILABLE, AND IN COMPLIANCE WITH ANY APPLICABLE STATE SECURITIES LAWS OR (2) PURSUANT TO A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE SECURITIES ACT OR APPLICABLE STATE SECURITIES LAWS AND THE SELLER HAS FURNISHED A LEGAL OPINION SATISFACTORY TO THE COMPANY."

THE SECURITIES REPRESENTED HEREBY WILL BE VOID AFTER THE TIME OF EXPIRY AS DESCRIBED HEREIN. DO NOT DESTROY THIS WARRANT CERTIFICATE.

THIS CERTIFIES that, for value received, [QCP CW S.A.R.L. OR DATA & AUDIO-VISUAL ENTERPRISES INVESTMENTS INC.] (the "Holder") is the registered holder of ● warrants (the "Warrants") of DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. (the "Company"). Each Warrant will entitle the Holder, subject to the terms and conditions set forth in this certificate or by a replacement certificate (in either case, the "Warrant Certificate"), to acquire from the Company, (i) prior to an IPO, one fully paid and non-assessable [Common Share OR Class B Share], or (ii) from and after an IPO, one fully paid and non-assessable Share (that is of the same class as an IPO share), at any time commencing on the date hereof and continuing up to 5:00 p.m. (Eastern time) on September 25, 2018 (the "Time of Expiry"), on payment of \$0.01 (one penny) per Share (the "Exercise Price"), provided, however, in the event that a Change of Control has been approved by the requisite majority of the holders of Shares before September 25, 2018, then the Time of Expiry shall be accelerated to the closing time of the Change of Control transaction (and the Holder shall have the right to conditionally exercise such Warrants prior to the closing time of the Change of Control transaction, failing which the Warrants shall expire). The number of Shares which

the holder is entitled to acquire upon exercise of the Warrants and the Exercise Price are subject to adjustment as hereinafter provided, as applicable. The Company shall provide the Holder written notice of a Change of Control at least ten (10) Business Days prior to the effective date of the occurrence of a Change of Control. For the purposes of this Agreement, the term "Shares" shall mean the [Common Shares or Class B Shares] and/or the Shares that are of the same class as the IPO Shares, as the context requires.

Section 1 Defined Terms.

Capitalized terms used in this Warrant Certificate and not otherwise defined have the meanings given to them in Schedule 1, unless there is something in the subject matter or context inconsistent therewith.

Section 2 Rules of Interpretation.

In this Warrant Certificate:

- (1) the division of this Warrant Certificate into Sections and the insertion of headings are for convenient reference only and do not affect its interpretation;
- (2) any reference in this Warrant Certificate to gender includes all genders. Words importing the singular number also include the plural and vice versa;
- (3) all references in this Warrant Certificate to dollars or to "\$" are expressed in Canadian currency unless otherwise specifically indicated;
- (4) the words "including", "includes" and "include" mean "including (or includes or include) without limitation", and (ii) the words "the aggregate of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of". The expressions "Section" and other subdivision followed by a number mean and refer to the specified Section or other subdivision of the Warrant Certificate;
- (5) in the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding";
- (6) except as otherwise provided in this Warrant Certificate, any reference in this Warrant Certificate to a statute refers to such statute and all rules and regulations made under it as they may have been or may from time to time be amended, re-enacted or superseded; and
- (7) the schedules attached to this Warrant Certificate form an integral part of it for all purposes of it.

Section 3 Exercise of Warrants.

- (1) Election to Purchase. The rights evidenced by this Warrant Certificate may be exercised by the Holder in whole or in part and in accordance with the provisions hereof by delivery of an election to exercise substantially in the form attached hereto as Schedule 3(1) (the "Election to Exercise"), properly completed and executed,

together with payment of the Exercise Price for the number of Shares specified in the Election to Exercise at the office of the Company at Suite 2300 Canada Trust Tower, Brookfield Place, 161 Bay Street, Toronto, Ontario M5J 2S1, or such other address as may be specified in writing by the Company. In the event that the rights evidenced by this Warrant Certificate are exercised in part, the Company will, contemporaneously with the issuance of the Shares issuable on the exercise of the Warrants so exercised, issue to the Holder a replacement certificate representing the unexercised balance of the Warrants. Notwithstanding the foregoing, the Holder shall not be permitted to exercise any Warrants if such exercise would or would reasonably be expected to result in a breach of Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada), the relevant provisions of which are attached hereto as Appendix "A", and the Company shall be entitled to reject any such exercise in its discretion, acting reasonably.

- (2) Exercise. Subject to Section 3(1), the Company will, on the date it receives a duly executed Election to Exercise and a payment equal to the aggregate Exercise Price for the number of Shares specified in the Election to Exercise (the "Exercise Date"), issue that number of Shares specified in the Election to Exercise as fully paid and non-assessable Shares of the Company.
- (3) Share Certificate. As promptly as practicable after the Exercise Date and, in any event, within five (5) Business Days of receipt of the Election to Exercise, the Company will issue and deliver to the Holder, registered in such name or names as the Holder may direct or if no such direction has been given, in the name of the Holder, a certificate or certificates for the number of Shares making up the Shares specified in the Election to Exercise. To the extent permitted by Law, such exercise will be deemed to have been effected as of the close of business on the Exercise Date, and at such time the rights of the Holder with respect to the number of Warrants which have been exercised as such will cease, and the Person or Persons in whose name or names any certificate or certificates for Shares will then be issuable upon such exercise will be deemed to have become the holder or holders of record of the Shares represented thereby. The certificate(s) for any Shares issued pursuant to the exercise of the Warrants will bear such restrictive or other legends as may be advised by counsel to the Company.
- (4) Exercise by U.S. Person. The Warrants represented hereby and Shares which may be acquired hereunder have not been registered under the United States *Securities Act of 1933*, as amended (the "U.S. Securities Act") or applicable state securities Laws, and the Warrants evidenced by this Warrant Certificate may not be exercised by or on behalf of any "U.S. person", as such term is defined in Regulation S under the U.S. Securities Act, or a person within the United States unless registered under the U.S. Securities Act or pursuant to an applicable exemption from registration under the U.S. Securities Act and applicable state securities Laws and the Company has received an opinion of counsel of recognized standing to such effect in form and substance satisfactory to the Company; provided to the extent the Holder exercising the Warrants represented hereby is the original registered holder of the Warrants then the Holder need only confirm its status as an "accredited investor", as defined in

Rule 501(a) of Regulation D under the U.S. Securities Act, at the time of exercise of the Warrants.

Section 4 Anti-Dilution Protection.

(1) If at any time there occurs:

- (a) a reclassification or redesignation of the Shares, any change of the Shares into other shares or securities or any other capital reorganization involving the Shares;
- (b) a consolidation, amalgamation, arrangement, takeover or merger of the Company with or into any other body corporate which results in a reclassification or redesignation of the Shares or a change of the Shares into other shares or securities;
- (c) the transfer of the undertaking or assets of the Company as an entirety or substantially as an entirety to another corporation or entity;
- (d) the subdivision, redivision or change of the outstanding Shares into a greater number of Shares;
- (e) the reduction, consolidation or combination of the outstanding Shares into a lesser number of Shares (any of such events listed in items (a) through (e) inclusive being herein called a "Capital Reorganization");
- (f) the fixing of a record date for the issue of, or the issuance of, Shares (or securities convertible or exchangeable into Shares) to the holders of all or substantially all of the outstanding Shares by way of a stock dividend or other distribution of Shares or securities exchangeable or convertible into Shares; or
- (g) the fixing of a record date for the distribution to, or the distribution to, the holders of all or substantially all of the Shares payable in Shares or securities exchangeable for or convertible into Shares or any other property (any of such events listed in items (f) and (g) being herein called a "Distribution"),

after the effective date of the Capital Reorganization or Distribution the Holder will be entitled to receive, and shall accept, for the same aggregate consideration, upon exercise of the Warrants, in lieu of the number of Shares to which the Holder was theretofore entitled upon the exercise of the Warrants, the kind and aggregate number of shares and other securities or property resulting from the Capital Reorganization and/or Distribution which the Holder would have been entitled to receive as a result of the Capital Reorganization and/or Distribution if, on the effective date thereof, the Holder had been the registered holder of the number of Shares to which the Holder was theretofore entitled to purchase or receive upon the exercise of the Warrants. If necessary, as a result of any Capital Reorganization and/or Distribution, appropriate adjustments will be made in the application of the provisions of this Warrant Certificate with respect to the rights and interest thereafter of the Holder to the end that the provisions of this Warrant Certificate will thereafter correspondingly be made applicable as nearly as may reasonably be possible in

relation to any shares or other securities or property thereafter deliverable upon the exercise of the Warrants.

- (2) With respect to any rights or warrants (the "Rights") that may be issued or distributed pursuant to any shareholder rights plan that the Company implements after the date of this Warrant Certificate (a "Rights Plan"), to the extent that such Rights Plan is in effect at the Exercise Date, the holders of Warrants will receive, with respect to the Shares issued upon such exercise, the Rights described therein (whether or not the Rights have separated from the Shares at the time of exercise), subject to the limitations set forth in and in accordance with any such Rights Plan; provided that, if, at the time of exercise, however, the Rights have separated from the Shares in accordance with the provisions of the Rights Plan so that holders of Warrants would not be entitled to receive any rights in respect of the Shares issuable upon exercise of the Warrants as a result of the timing of the Exercise Date, then (unless the Company distributes such Rights to the holders of Warrants at the time of separation as if each holder had exercised their Warrants immediately prior to the record date with respect to such distribution) the Share Rate in effect immediately prior to the record date fixed for the determination of shareholders of the Company entitled to receive such Rights on separation shall be adjusted so that the same shall equal the rate determined by multiplying the Share Rate in effect immediately prior to such record date by a fraction of which the numerator shall be the Current Market Price per Share on such record date and of which the denominator shall be Current Market Price per Share on such record date less the fair market value (as determined in good faith by the Company's Board of Directors, whose determination shall be conclusive evidence of such fair market value) on such record date of the Rights applicable to one Share, subject to appropriate readjustment in the event of the expiration, termination, repurchase or redemption of the Rights. Other than as specified in this Section 4(2), there will not be any adjustment to the Share Rate as the result of the issuance of any Rights, the distribution of separate certificates representing such Rights, the exercise or redemption of such Rights in accordance with any Rights Plan or the termination or invalidation of any Rights.
- (3) If any issuer bid made by the Company or any of its Subsidiaries for all or any portion of Shares expires, then, if the issuer bid shall require the payment to shareholders of the Company of consideration per Share having a fair market value (determined as provided below) that exceeds the Closing Price on a Recognized Stock Exchange on the Trading Day next succeeding the last date (the "Expiration Date") deposits could have been made pursuant to such issuer bid (as it may be amended) (the last time at which such tenders could have been made on the Expiration Date is hereinafter sometimes called the "Expiration Time"), the Share Rate shall be increased so that the same shall equal the rate determined by multiplying the Share Rate in effect immediately prior to the close of business on the Expiration Date by a fraction of which the numerator shall be the sum of (A) the fair market value of the aggregate consideration (the fair market value as determined in good faith by the Company's board of directors, whose determination shall be conclusive evidence of such fair market value) payable to shareholders of the Company based on the acceptance (up to any maximum specified in the terms of the issuer bid) of all Shares validly tendered and not withdrawn as of the Expiration Time (the Shares deemed so

accepted, up to any such maximum, being referred to as the "Purchased Shares") and (B) the product of the number of Shares outstanding (less any Purchased Shares and excluding any Shares held in the treasury of the Company) at the Expiration Time and the Closing Price per Share on the Trading Day next succeeding the Expiration Date and the denominator of which shall be the product of the number of Shares outstanding (including Purchased Shares but excluding any Shares held in the treasury of the Company) at the Expiration Time multiplied by the Closing Price per Share on the Trading Day next succeeding the Expiration Date, such increase to become effective immediately prior to the opening of business on the seventh Trading Day following the Expiration Date. In the event that the Company is obligated to purchase Shares pursuant to any such issuer bid, but the Company is permanently prevented by applicable Law from effecting any or all such purchases or any or all such purchases are rescinded, the Share Rate shall again be adjusted to be the Share Rate which would have been in effect based upon the number of shares actually purchased, if any. If the application of Section 4(3) to any issuer bid would result in a decrease in the Share Rate, no adjustment shall be made for such issuer bid under this Section 4(3).

- (4) Rules. The following rules and procedures will be applicable to adjustments made pursuant to Section 4(1) of this Warrant Certificate.
- (a) Subject to the following provisions of this Section 4(2), any adjustment made pursuant to Section 4(1) hereof will be made successively whenever an event referred to therein will occur.
 - (b) No adjustment will be made in the number of Shares purchasable or issuable on the exercise of the Warrants unless it would result in a change of at least one one-hundredth of a Share; provided, however, that any adjustments which except for the provisions of this Section 4(4)(b) would otherwise have been required to be made will be carried forward and taken into account in any subsequent adjustment.
 - (c) If at any time prior to the Time of Expiry, the Company will take any action affecting the Shares, other than an action or an event described in Section 4(1) hereof, which in the opinion of the Board would have a material adverse effect upon the rights of the Holder under this Warrant Certificate, the number of Shares purchasable under this Warrant Certificate will be adjusted in such manner and at such time as the Board may determine to be equitable in the circumstances.
 - (d) No adjustment in the number or kind of securities purchasable on the exercise of the Warrants will be made in respect of any event described in Section 4 hereof if the Holder is entitled to participate in such event on the same terms *mutatis mutandis* as if the Holder had exercised the Warrants prior to or on the record date or effective date, as the case may be, of such event.
 - (e) No adjustment in the number or kind of securities purchasable on the exercise of the Warrants will be made in respect of any issuance or sale of Shares to

employees of the Company under any share ownership plan or stock option plan for employees and other Persons approved by the Board.

- (f) If the Company sets a record date to determine holders of Shares for the purpose of entitling such holders to receive any dividend or distribution or any subscription or purchase rights and will thereafter and before the distribution to such holders of any such dividend, distribution or subscription or purchase rights legally abandon its plan to pay or deliver such dividend, distribution or subscription or purchase rights, no adjustment in the Exercise Price or the number of Shares purchasable upon the exercise of the Warrants will be required by reason of the setting of such record date.
- (g) In any case in which this Warrant Certificate requires that an adjustment become effective immediately after a record date for an event referred to in Section 4(1) hereof, the Company may defer, until the occurrence of such event:
 - (i) issuing to the Holder, to the extent that the Warrants are exercised after such record date and before the occurrence of such event, the additional Shares issuable upon such exercise by reason of the adjustment required by such event; and
 - (ii) delivering to the Holder any distribution declared with respect to such additional Shares after such record date and before such event;

provided, however, that the Company delivers to the Holder an appropriate instrument evidencing the right of the Holder, upon the occurrence of the event requiring the adjustment, to an adjustment in the number of Shares purchasable upon the exercise of the Warrants.

- (h) If a dispute arises at any time with respect to any adjustment in the number of Shares purchasable pursuant to this Warrant Certificate, such dispute will be conclusively determined by the auditors of the Company or if they are unable or unwilling to act by such other firm of independent chartered accountants as may be selected by the directors, acting reasonably.
 - (i) Adjustments to the number of Shares purchasable pursuant to this Warrant Certificate may be subject to the prior approval of any stock exchange on which the Shares are listed at the time of such adjustment.
- (5) Taking of Actions. As a condition precedent to the taking of any action which would require an adjustment pursuant to Section 4(1) hereof the Company will take any action which may, in the opinion of the Company's legal counsel, be necessary in order that the Company may validly and legally issue as fully paid and non-assessable Shares all of the Shares which the Holder is entitled to receive in accordance with the provisions of this Warrant Certificate.
- (6) Notice. At least twenty-one days prior to any record date or effective date, as the case may be, for any event which requires or might require an adjustment in any of the

rights of the Holder under this Warrant Certificate, including the number of Shares which are purchasable under this Warrant Certificate, the Company will deliver to the Holder, at the Holder's registered address, a certificate of the Company specifying the particulars of such event and, if determinable, the required adjustment and the calculation of such adjustment. In case any adjustment for which a notice in this Section 4(6) has been given is not then determinable, the Company will promptly after such adjustment is determinable deliver to the Holder, at the Holder's registered address, a certificate providing the calculation of such adjustment. The Company hereby covenants and agrees that the register of transfers and Share transfer books for the Shares will be open, and that the Company will not take any action which might deprive the Holder of the opportunity of exercising the rights of subscription contained in this Warrant Certificate, during such twenty-one day period.

Section 5 Covenants and Representations.

- (1) Covenants of the Company. The Company hereby represents and warrants that it is authorized to create and issue the Warrants and covenants and agrees that it will cause the Shares from time to time subscribed for and purchased in the manner provided in this Warrant Certificate and the certificate representing such Shares to be issued and that, if at any time it has a limitation on the number of Shares that may be issued, it will, at all times thereafter and prior to the Time of Expiry, reserve and there will remain unissued a sufficient number of Shares to satisfy the right of purchase provided for in this Warrant Certificate. All Shares which are issued upon the exercise of the right of purchase provided in this Warrant Certificate, upon payment therefor of the amount at which such Shares may be purchased pursuant to the provisions of this Warrant Certificate, shall be and be deemed to be fully paid and non-assessable Shares and free from all taxes, liens and charges with respect to the issue thereof. The Company hereby represents and warrants that this Warrant Certificate is a valid and enforceable obligation of the Company, enforceable in accordance with the provisions of this Warrant Certificate.
- (2) Covenants of the Holder. By the Holder's acceptance of this Warrant Certificate (defined below), the Holder acknowledges and agrees to take all such actions as are within its power to control and use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with each of the covenants described in this Section 5(2).
 - (a) [NTD: The following will be inserted in the Warrants for Class B Shares only.] In the event that prior to the completion of an IPO, the Holder exercises any Warrants for Class B Shares, the Holder hereby covenants and agrees that (i) it will not elect to convert, or request the Company to convert, any or all of such Class B Shares into Common Shares (as such Class B Shares may be converted in accordance with the share provisions thereof), and (ii) notwithstanding the constating documents of the Company, the Company may refuse to issue and deliver Common Shares in respect of any request by the Holder to convert such Class B Shares into Common Shares. Notwithstanding the foregoing, in the event that a Change of Control has been approved by the requisite majority of the holders of Shares, then the Holder will be allowed to conditionally exchange his/her/its Class B Shares

into Common Shares in order to participate or tender his/her/its Shares into the Change of Control transaction, provided that (i) from the period commencing on the date of exchange until the closing date of the Change of Control transaction, the Holder cannot vote the Common Shares so exchanged in any way; and (ii) in the event the Change of Control transaction is not completed for any reason, then the Holder will be treated as a holder of Class B Shares and not a holder of Common Shares, and such exchange shall be deemed not to have occurred.

- (b) In the event that (i) Holder exercises any Warrants for [Common Shares or Class B Shares], and (ii) upon an IPO, the Company reclassifies or redesignates the [Common Shares or Class B Shares], or offers to the public Shares that are not the [Common Shares or Class B Shares], and the Holder receives written notice of such reclassification, redesignation or offering, the Holder hereby covenants and agrees it shall surrender the certificates representing the [Common Shares or Class B Shares] held by it at the head office of the Company on or prior to the IPO Date, accompanied by a written instrument agreeing to exchange such [Common Shares or Class B Shares] for Shares (that are of the same class as the IPO Shares) in form satisfactory to the Company duly executed by the registered holder of the [Common Shares or Class B Shares] or its attorney duly authorized in writing. As promptly as practical after the surrender of such [Common Shares or Class B Shares], the Company shall issue and deliver, or cause to be delivered, to the registered holder of the [Common Shares or Class B Shares] so surrendered, a certificate (or certificates) issued in the name of such holder representing the number of Shares (that are of the same class as the IPO Shares) that is equal to the number of [Common Shares or Class B Shares] surrendered, subject to the application of the Anti-Dilution Protection provisions contained in Section 4 hereof *mutatis mutandis*. In the event that the Holder fails to exchange such [Common Shares or Class B Shares], the Holder irrevocably constitutes and appoints the Company as the true and lawful attorney of the Holder to act for and in the name of the Holder, with full power of substitution, to execute and deliver such documents, instruments or agreements and do all acts and things necessary to effect the exchange as herein provided.
- (c) [NTD: The following will be inserted in the Warrants for Class B Shares only.] In the event that prior to the completion of an IPO, the Holder exercises any Warrants for Class B Shares and converts such Class B Shares for Common Shares in violation of Section 5(2)(a), the Holder hereby irrevocably constitutes and appoints DAVE Investments as the true and lawful attorney of the Holder to act for and in the name of the Holder, with full power of substitution, to vote such Common Shares at any meeting of shareholders of the Company, to sign any written resolution of shareholders, or to exercise any other voting rights attached to such Common Shares, in the sole discretion of DAVE Investments, without consultation with the Holder. The power of attorney provided in this Section 5(2)(c) shall expire and no longer be effective upon the completion of an IPO. This power of attorney is irrevocable, is coupled with an interest and has been given for valuable

consideration, the receipt and adequacy of which is acknowledged. This power of attorney and other rights and privileges granted under this Section 5(2)(c) will survive any legal or mental incapacity, dissolution, bankruptcy or death of the Holder. This power of attorney extends to the heirs, executors, administrators, other legal representatives and successors, transferees and assigns of the Holder. Any person dealing with DAVE Investments may conclusively presume and rely upon the fact that any document, instrument or agreement executed by DAVE Investments pursuant to this power of attorney is authorized and binding on the Holder, without further inquiry. The Holder agrees to be bound by any representations or actions made or taken by DAVE Investments pursuant to this power of attorney, and waives any and all defences that may be available to contest, negate or disaffirm any action of DAVE Investments taken in good faith under this power of attorney;

- (d) Prior to the completion of an IPO, the Holder hereby covenants and agrees that it will not transfer any Shares acquired by it, whether pursuant to the exercise of any Warrants or otherwise, if such transfer of Shares would or would reasonably be expected to result in (i) in respect of the Company, a breach of Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada), (ii) a breach of applicable Laws (including Applicable Securities Laws); or (iii) a violation of the constating documents of the Company;
- (e) In the event that prior to the completion of an IPO the Holder transfers any Shares to a transferee permitted pursuant to Section 5(2)(d), the Holder covenants and agrees that no such transfer shall be valid unless and until such transferee complies with the reasonable requests of the Company, including executing an acknowledgement (in form satisfactory to the Company, acting reasonably) pursuant to which the transferee agrees to be bound by the Holders' covenants contained in this Section 5(2) as if it were the original holder of the Warrant Certificate, and provides evidence satisfactory to the Company, acting reasonably, that it has complied with the transfer restrictions set out in Section 5(2)(d); and
- (f) [NTD: Insert the following in the Warrants for Common Shares.] The Holder acknowledges that as of the date this Warrant Certificate was issued, the Company has issued the maximum number of Common Shares permitted under its constating documents to be issued to persons that are not "Canadian" within the meaning of Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada), and as such, should a transferee of Common Shares be a person that is not as such "Canadian", such transferee would be required (in accordance with the Company's constating documents) to exchange such Common Shares for Class B Shares (provided no increase to the number of holders of Shares who are as such "Canadian").

Section 6 Expiry Date.

The Warrants will expire and all rights to purchase Shares hereunder will cease and become null and void at and after the Time of Expiry. At and after the Time of Expiry, no Holder of a Warrant Certificate representing a Warrant will have any further rights to acquire Shares, and the Warrants will be of no value or effect.

Section 7 No Fractional Shares.

The Company will not be required to issue fractional Shares in satisfaction of its obligations hereunder. If any fractional interest in a Share would be deliverable upon the exercise of a Warrant, the Company will, at its option, in its sole discretion, (i) satisfy the right to receive such fractional interest by payment to the Holder of an amount in cash equal (computed in the case of a fraction of a cent to the next lower cent) to the value of the right to acquire such fractional interest on the Exercise Date, or (ii) issue to the Holder one whole Share in lieu of such fractional interest.

Section 8 Transfer of Warrants.

- (1) The Company will keep at its head office a register (the "Register"): (i) in which will be entered the names and addresses of the Holders of the Warrants and particulars of the Warrants; and (ii) in which all transfers of the Warrants and the date and other particulars of each transfer will be entered. This Register will at all reasonable times be open for inspection by the Holder.
- (2) Upon five (5) Business Days prior written notice to the Company (or such shorter notice as the Company may consent to), the Holder may have all or part of the Warrants transferred to any Person at the place at which the register of transfers is kept pursuant to the provisions of this Section 8, provided that the transferee must agree to be bound by the Holder's covenants contained in Section 5(2) herein. The Warrants may only be transferred in accordance with applicable Laws including Applicable Securities Laws and the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the *Telecommunications Act* (Canada), and upon compliance with the conditions herein, by the Holder or its legal representative or its attorney duly appointed by an instrument in writing, in form and execution satisfactory to the Company, upon compliance with such reasonable requirements as the Company may prescribe, which may include the provision of an opinion of counsel to the Company or the Holder to the effect that the securities laws of the applicable jurisdiction(s) have been complied with in relation to the transfer of the Warrants, and will be valid only if entered on the register of transfers kept at the office of the Company. Upon execution by the Holder and its transferee of the transfer form attached to the Warrants as Schedule 8(2), and surrender of the Warrants, and upon compliance with the reasonable requirements as the Company has prescribed such transfer will be duly noted on the Register by the Company. The Holder and the successive respective holders of such Warrant Certificate (and not the Company) shall be solely responsible for ensuring compliance with the requirements and restrictions set out herein in respect of the transfer of the Warrant Certificate. Any transfer in violation of, or not in compliance with, this Section 8(2) shall be deemed to not have occurred, and the Company shall not be affected or bound by any such transfer or required to record such transfer on the

Register. In the event that the Warrants becomes subject to transfer in part only, upon surrender of such Warrant Certificate, the Company shall execute and deliver without charge to the Holder and its transferee, as applicable, two or more certificates representing the Warrants. Any new Warrant Certificate issued to a transferee will bear such restrictive or other legends as may be advised by counsel to the Company.

- (3) The Company may treat the registered holder of the Warrants as the absolute holder and owner thereof for all purposes and the Company will not be affected or bound by any notice to the contrary, except where the Company is required to take notice by statute or by order of a court of competent jurisdiction. Subject to any applicable Laws to the contrary, the Company will not be bound to take notice of or see to the execution of any trust, whether express, implied or constructive, in respect of the Warrants, and may transfer the Warrants on the direction of the Holder, whether named as trustee or otherwise, as though that Person were the beneficial holder of the Warrants.

Section 9 Replacement.

Upon receipt of evidence satisfactory to the Company of the loss, theft, destruction or mutilation of this Warrant Certificate and, if requested by the Company, upon delivery of a bond of indemnity satisfactory to the Company (or, in the case of mutilation, upon surrender of this Warrant Certificate), the Company will issue to the Holder a replacement certificate (containing the same terms and conditions as this Warrant Certificate).

Section 10 Amendments.

Provided this Warrant Certificate is held by the original registered holder or its affiliates, this Warrant Certificate may only be amended, supplemented or otherwise modified by written agreement or instrument signed by the Company and Quadrangle.

In the event this Warrant Certificate is not held by the original registered holder or its affiliates, this Warrant Certificate shall be deemed to be one of a series of warrant certificates issued by the Company (the "Warrant Certificates"). The Warrant Certificates may be amended with the consent of the holders of at least two-thirds of the aggregate principal amount of all the Warrant Certificates of this series, in which case such amendments shall be binding on the Holder with or without its consent. The consent of the holders of at least two-thirds of the aggregate principal amount of all the Warrant Certificates may be obtained in writing or at a meeting, where at least 25% of the aggregate principal amount of all Warrants outstanding are present in person or represented by proxy.

Section 11 Shareholder Status.

The holding of the Warrants evidenced by this Warrant Certificate will not constitute the Holder a shareholder of the Company or entitle the Holder to any right or interest in respect thereof except as expressly provided in this Warrant Certificate.

Section 12 Successors.

This Warrant Certificate will enure to the benefit of and will be binding upon the Holder and the Company and their respective successors.

Section 13 Governing Law.

This Warrant Certificate will be construed in accordance with the Laws of the Province of Ontario and the federal Laws of Canada applicable therein and will be treated in all respects as an Ontario contract.

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

IN WITNESS WHEREOF the Company has caused this Warrant Certificate to be signed
by its duly authorized officer.

DATED as of the _____ day of _____, 20____.

DATA & AUDIO-VISUAL
ENTERPRISES HOLDINGS INC.

By: _____
Authorized Signing Officer

SCHEDULE 1

DEFINED TERMS

"Affiliate" or "affiliate" means, unless otherwise specified, an affiliate within the meaning of Section 1.2 of National Instrument 45-106 – *Prospectus and Registration Exemptions*.

"Applicable Securities Laws" means the *Securities Act* (Ontario) and all other applicable Canadian securities Laws.

"Board" means the board of directors of the Company.

"Business Day" means any day of the year, other than a Saturday, a Sunday or any day on which banks are required or authorized to close in Toronto, Ontario.

"Change of Control" means a sale or other disposition of all or substantially all of the equity or assets of the Company to a Person or group of Persons (acting in concert) other than DAVE Investments and Quadrangle.

"Capital Reorganization" has the meaning specified in Section 4(1)(e).

"Class B Shares" means non-voting participating Class B shares of the Company.

"Closing Price" means on any Trading Day, the reported last sale price per Share (or if no last sale price is reported, the average of the bid and ask prices per Share or, if more than one in either case, the average of the average bid and the average ask prices per Share) on such date reported by the Recognized Stock Exchange, or if no such prices are available, the Closing Price shall be the fair value of a Share as reasonably determined by such nationally recognized independent investment banking firm as may be selected by the Board of Directors of the Company in its sole discretion (which determination shall be conclusive and shall be evidenced by an officers' certificate delivered to the Board of Directors).

"Common Shares" means common shares of the Company.

"Company" means Data & Audio-Visual Enterprises Holdings Inc., a corporation organized under the Laws of Ontario.

"Current Market Price" in respect of a Share at any date, means the volume weighted average price per Share for the 20 consecutive trading days ending on the fifth trading day before such date on the Toronto Stock Exchange or, if the Shares are not then listed on the Toronto Stock Exchange, then on such other stock exchange on which the Shares are then listed as may be selected by the Company's Board of Directors or, if the Shares are not then listed on a stock exchange, on the over-the-counter market; the volume weighted average price shall be determined by dividing the aggregate of the sales prices of all such Shares sold on such exchange or market, as the case may be, during the said 20 consecutive trading days by the total number of Shares so sold; provided that, if the Shares are not listed on a stock exchange and there is no market for the Shares during all or part of such period during which the Current Market Price thereof would otherwise be determined, the Current

Market Price in respect of a Share shall in respect of all or such part of the period be determined by such nationally recognized independent investment banking firm as may be selected by the Company's Board of Directors, in its sole discretion, acting reasonably.

"DAVE Investments" means Data & Audio-Visual Enterprises Investments Inc. and any of its Affiliates.

"Distribution" has the meaning specified in Section 4(1)(g).

"Exercise Date" has the meaning specified in Section 3(2).

"Exercise Price" has the meaning specified on the first page of the Warrant Certificate.

"Expiration Date" has the meaning specified in Section 4(3).

"Expiration Time" has the meaning specified in Section 4(3).

"Governmental Entity" means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any court and any government agency, board, commission, tribunal or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.

"Holder" means the holder of the Warrants represented by this Warrant Certificate.

"IPO" means (i) the first registration or qualification of equity or equity-like securities of the Company or any of its Subsidiaries under a prospectus, for which a final receipt has been granted by the applicable securities regulatory authority, (ii) any transaction or series of transaction, involving an acquisition by the Company (or any Subsidiary) or of the Company (or any Subsidiary), and an equity or equity-like security issuance by the Company or such Subsidiary, that results in the Company or such Subsidiary becoming a reporting issuer (as such term is defined in Applicable Securities Laws) in Canada, or the equivalent in a foreign jurisdiction.

"IPO Shares" means shares that are sold or issued to the public pursuant to the IPO, on the basis that as of the date hereof one IPO Share would be one Class B Share, and if there is a Capital Reorganization or a Distribution after the date hereof and on or prior to the IPO, then such ratio would be adjusted in accordance with Section 4 of this Agreement.

"Laws" means applicable (i) Laws, constitutions, treaties, statutes, codes, ordinances, statutory rules, principles of common and civil Law and equity, terms and conditions of any grant of approval, permission, orders, decrees, rules, regulations and municipal by-Laws, whether domestic, foreign or international; (ii) judicial, arbitral, administrative, ministerial, departmental and regulatory judgments, orders, writs, injunctions, decisions, rulings, authority, licence, decrees and awards of any Governmental Entity (including the Securities Regulatory Authorities); and (iii) policies, practices and guidelines of any Governmental Entity (including the Securities Regulatory Authorities), which, although not actually having the force of Law, are considered by such Governmental Entity as requiring compliance as if having the force of Law, in each case binding on or affecting the Person, or

the assets of the Person, referred to in the context in which such word is used, and the term "applicable" with respect to such Laws and in the context that refers to one or more Persons, means that such Laws apply to such Person or Persons or its or their business, undertaking, property or securities and emanate from a Governmental Entity (including the Securities Regulatory Authorities) having jurisdiction over the Person or Persons or its or their business, undertaking, property or securities, in each case as such Laws may be amended from time to time.

"Licensee" means Data & Audio-Visual Enterprises Wireless Inc., the licensee of certain spectrum from Industry Canada, or any assignee of such licensee which is an Affiliate of the Company.

"Person" means a natural person, partnership, limited partnership, limited liability partnership, limited liability company, unlimited liability company, corporation, joint stock company, trust, unincorporated association, joint venture or other entity or Governmental Entity, and pronouns have a similarly extended meaning.

"Purchased Shares" has the meaning specified in Section 4(3).

"Quadrangle" means QCP CW S.A.R.L and any of its Affiliates.

"Recognized Stock Exchange" means the Toronto Stock Exchange or if the Shares are not listed on the Toronto Stock Exchange, any other stock exchange on which the Shares are then listed and posted for trading.

"Rights" has the meaning specified in Section 4(2).

"Rights Plan" has the meaning specified in Section 4(2).

"Securities Regulatory Authorities" means collectively, the provincial and territorial securities regulatory authority in each of the provinces and territories of Canada, and the Toronto Stock Exchange.

"Share" means a [Common Share or Class B Share] and/or a Share that is of the same class as an IPO Share, as the context requires.

"Share Rate" means, at any time, the number of Shares, as applicable, which are issuable upon the exercise of the Warrants, subject to adjustment in accordance with Article 4, such number being currently equal to one [Common Share or Class B Share] per Warrant.

"Subsidiary" means any Person controlled, directly or indirectly, by the Company.

"Time of Expiry" has the meaning specified on the first page of the Warrant Certificate, or as it may be accelerated in accordance with the terms contained herein.

"Trading Day" means, with respect to any Recognized Stock Exchange or any other market for securities, any day on which such exchange or market is open for trading or quotation.

"U.S. Securities Act" has the meaning specified in Section 3(4).

"Warrant" means the warrants issued by the Company to the Holder.

"Warrant Certificate" has the meaning specified on the first page of the Warrant Certificate.

"Warrant Certificates" has the meaning specified in Section 10.

**SCHEDULE 3(1)
ELECTION TO EXERCISE**

The undersigned hereby irrevocably elects to exercise the number of Warrants of Data & Audio-Visual Enterprises Holdings Inc. (the "Company") set out below for the number of Shares (or other property or securities subject thereto) as set forth below:

- (a) Number of Warrants to be Exercised: _____
- (b) Number of Shares to be Acquired: _____
- (c) Exercise Price per Warrant: \$0.01
- (d) Aggregate Purchase Price [(b) multiplied by (c)]: \$ _____

and hereby tenders a certified cheque, bank draft or cash for such aggregate purchase price, and directs such Shares to be registered and a certificate therefor to be issued as directed below.

The undersigned represents, warrants and certifies as follows (one (only) of the following must be checked):

☐ A. The undersigned holder (i) at the time of exercise of the Warrants is not in the United States; (ii) is not a "U.S. person" as defined in Regulation S under the United States Securities Act of 1933, as amended (the "U.S. Securities Act"), and is not exercising the Warrants on behalf of a "U.S. person"; and (iii) did not execute or deliver this exercise form in the United States.

☐ B. The undersigned holder has delivered to the Company an opinion of counsel (which will not be sufficient unless it is from counsel of recognized standing and in form and substance satisfactory to the Company) to the effect that an exemption from the registration requirements of the U.S. Securities Act and applicable state securities Laws is available.

☐ C. The undersigned holder, to the extent the undersigned holder exercising the Warrants represented hereby is the original registered holder of the Warrants, has confirmed, at the time of exercise of the Warrants, its status as an "accredited investor", as defined in Rule 501(a) of Regulation D under the U.S. Securities Act.

Note: Certificates will not be registered or delivered to an address in the United States unless Box B above is checked.

Note: If Box B is to be checked, holders are encouraged to consult with the Company in advance to determine that the legal opinion tendered in connection with exercise will be satisfactory in form and substance to the Company.

DATED this _____ day of _____, 20____.

Per: _____

Direction as to Registration of Shares

Name of Registered Holder:

Address of Registered Holder:

EXHIBIT 8(2)
WARRANT TRANSFER FORM

Certificate No. ●

● Warrants

Transfer No. ●

TRANSFER OF WARRANTS

[name of transferor] sells, assigns and transfers to [name of transferee] [number of Warrants] Warrants that were issued by Data & Audio-Visual Enterprises Holdings Inc. (the "Company") to [name of transferor]. [name of transferor] acknowledges receipt of good and valuable consideration for the sale, assignment and transfer of the Warrants and the sufficiency of such consideration. [name of transferee] acknowledges that it is bound by the terms and conditions of the Warrant Certificate.

[name of transferee] further acknowledges and agrees, for the benefit of the Company, to be bound by the [name of transferor]'s covenants contained in the Warrant Certificate as if [name of transferee] were an original holder thereof.

Capitalized terms used herein but not otherwise defined shall have the meaning ascribed thereto in the Warrant Certificate.

[NAME OF TRANSFEROR]

By: _____
Name:
Title:

[NAME OF TRANSFEREE]

By: _____
Name:
Title:

Appendix "A"

Excerpt from Section 2 of the Canadian Telecommunications Common Carrier Ownership and Control Regulations promulgated pursuant to the Telecommunications Act (Canada):

"Canadian" means

- (a) a citizen within the meaning of subsection 2(1) of the Citizenship Act who is ordinarily resident in Canada,
- (b) a permanent resident within the meaning of subsection 2(1) of the Immigration Act who is ordinarily resident in Canada, and has been ordinarily resident in Canada for not more than one year after the date on which that person first became eligible to apply for Canadian citizenship,
- (c) a Canadian government, whether federal, provincial or local, or an agency thereof,
- (d) a corporation without share capital, where a majority of its directors or officers, as the case may be, are appointed or designated, either by their personal names or by their names of office, by one or more of
 - (i) a federal or provincial statute or regulations made under a federal or provincial statute,
 - (ii) the Governor in Council or the lieutenant governor in Council of a province, or
 - (iii) a minister of the Crown in right of Canada or of a province,
- (e) a qualified corporation,
- (f) a qualified trust
- (g) a qualified mutual insurance company,
- (h) a qualified partnership, or
- (i) a qualified pension fund society. (Canadian)

"qualified corporation" means a corporation in which those of its shareholders who are Canadians beneficially own, and control, in the aggregate and otherwise than by way of security only, not less than 66-2/3 per cent of the issued and outstanding voting shares, and which is not otherwise controlled by non-Canadians; (personne morale qualifiée)

"qualified mutual insurance company" means a mutual insurance company the head office and principal place of business of which are in Canada, and not less than 80 per cent of the board and of each committee of its directors of which are individual Canadians; (société mutuelle d'assurance qualifiée)

"qualified partnership" means a partnership in which those of its partners who are Canadians beneficially own, and control, in the aggregate and otherwise than by way of security only, not less

than 66-2/3 per cent of the beneficial interest in the partnership, and which is not otherwise controlled by non-Canadians; (société de personnes qualifiée)

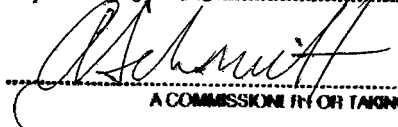
"qualified pension fund society" means a pension fund society the majority of whose members of its board of directors are individual Canadians, and that is established under An Act to Incorporate the Pension Fund Society of the Dominion Bank, S.C. 1887, c. 55; S.C. 1956, c. 66, An Act to Incorporate the Pension Fund Society of the Bank of Montreal, S.C. 1885, c. 13, the Pension Fund Society Act or any provincial legislation relating to the establishment of pension fund societies; (société de caisse de retraite qualifiée)

"qualified trust" means a trust in which Canadians have not less than 66-2/3 per cent of the beneficial interest, and of which a majority of the trustees are Canadians; (fiducie qualifiée)

Exhibit “G”

This is Exhibit 9 referred to in the
affidavit of William Aziz
sworn before me, this 29th
day of September 2013

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A COMMISSIONER IN CHARGE OF TAKING AFFIDAVITS

Execution Version

INTERCREDITOR AGREEMENT

This Intercreditor Agreement (the "Agreement") is made as of the 29th day of April, 2011 among

EQUITY FINANCIAL TRUST COMPANY, as Trustee for and on
behalf of the holders of the Senior Notes (as defined below) (the "Senior Note Trustee")

- and -

EQUITY FINANCIAL TRUST COMPANY, as Trustee for and on
behalf of the holders of the Senior Unsecured Debentures (as defined below) (the "Senior
Unsecured Debenture Trustee")

- and -

QCP CW S.A.R.L. ("Quadrangle")

- and -

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
(the "Company" or the "Issuer")

- and -

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
("Holdings")

- and -

DATA & AUDIO VISUAL ENTERPRISES LEASING INC.
("Leasing")

(Holdings and Leasing are individually a "Guarantor", and, collectively, the "Guarantors"
and, together with the Company, individually a "Grantor" and collectively the "Grantors")

WHEREAS:

A. The Company has issued \$195,000,000 principal amount first lien secured notes (the "Senior Notes") under an indenture (the "Senior Indenture") dated April 29, 2011 among the Issuer, the Guarantors and the Senior Note Trustee;

B. Holdings has issued \$95,000,000 principal amount of senior unsecured debentures (the "Senior Unsecured Debentures") pursuant to an indenture (the "Senior Unsecured Indenture") dated as of December 17, 2009, between Holdings and the Senior Unsecured Debenture Trustee, as amended and restated April 29, 2011;

C. As of the date hereof, Holdings has issued \$59,741,000 principal amount of convertible debentures that are held by Quadrangle (the "Pari Passu Convertible Debentures") pursuant to

a second amended and restated commitment agreement (the "**Quadrangle Commitment**") dated April 29, 2011 among Holdings, Quadrangle and Data & Audio Visual Enterprises Investments Inc. ("**Investments**");

D. Holdings may also in the future issue up to \$35,000,000 principal amount of convertible debentures to Quadrangle or Investments, as the case may be (the "**Subordinated Convertible Debentures**"), and, together with the Pari Passu Convertible Debentures, the "**Convertible Debentures**") pursuant to the Quadrangle Commitment;

E. The Senior Notes and all obligations in connection therewith (the "**Senior Obligations**") are secured by general security agreements executed by each of the Company, Holdings and Leasing (the "**Senior Security**");

F. Each of the Guarantors has guaranteed the Senior Obligations pursuant to the terms thereof or otherwise and any future Restricted Subsidiaries (within the meaning of the Senior Indenture) will also provide such guarantees (collectively, the "**Senior Guarantees**"); and

G. The parties hereto wish to set forth their respective rights and obligations in respect of the assets and undertaking of the Grantors and in respect of the Senior Obligations, the obligations in connection with the Senior Unsecured Debentures (the "**Senior Unsecured Debenture Obligations**") and the obligations in connection with the Convertible Debentures (the "**Convertible Debenture Obligations**").

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follow:

SECTION 1 – CONFIRMATION OF SUBORDINATION OF SENIOR UNSECURED DEBENTURES AND CONVERTIBLE DEBENTURES

(a) The Senior Unsecured Debenture Trustee hereby confirms that the Senior Obligations including the Senior Notes and Senior Guarantees constitute "Senior Indebtedness" within the meaning of the Senior Unsecured Indenture and that Article 5 thereof shall apply to the Senior Notes, the Senior Guarantees and the Senior Obligations and under all ancillary documentation including the Senior Security. The Senior Unsecured Debenture Trustee shall provide to the Senior Note Trustee an acknowledgment of such subordination substantially in the form of Schedule "E" to the Senior Unsecured Indenture.

(b) Quadrangle hereby confirms that the Senior Obligations including the Senior Notes and Senior Guarantees constitute "Senior Indebtedness" within the meaning of the Convertible Debentures and that Section 9.1 of the Quadrangle Commitment and Article 4 of the Convertible Debentures shall apply to the Senior Notes, the Senior Guarantees and the Senior Obligations and under all ancillary documentation including the Senior Security. Quadrangle shall provide such further acknowledgment thereof as the Senior Note Trustee shall require.

SECTION 2- RELATIONSHIP OF THE SENIOR UNSECURED DEBENTURES TO THE CONVERTIBLE DEBENTURES

(a) The Senior Unsecured Debentures and the Pari Passu Convertible Debentures shall rank *pari passu* to the extent of the principal amount of up to \$59,741,000 of Pari Passu Convertible Debentures (and, for greater certainty, any payment in kind and other accrued or capitalized interest). The Subordinated Convertible Debentures shall be subordinate to the Senior Unsecured Debentures and the Pari Passu Convertible Debentures and Quadrangle shall provide an acknowledgement of subordination in favour of the Senior Unsecured Debenture Trustee substantially in the form of Schedule E to the Senior Unsecured Indenture, with such changes as the circumstances require. For the avoidance of doubt, the Subordinated Convertible Debentures shall remain subordinated to the Senior Unsecured Debentures even if the Pari Passu Convertible Debentures are repaid in whole or in part.

(b) At any time and from time to time after the date hereof, Quadrangle may, in its sole discretion, deliver all or part of the Pari Passu Convertible Debentures and request that the Company amend such Pari Passu Convertible Debentures such that their provisions with respect to subordination are consistent with the form of Convertible Debenture set out in Schedule 3.5(a) to the Quadrangle Commitment. Upon the receipt of such request, Holdings shall promptly effect such amendments.

SECTION 3- MISCELLANEOUS

(a) **Applicable Law.** This Agreement will be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

(b) **Paramountcy.** If there is a conflict or inconsistency between the provisions of this Agreement and the provisions of any other agreement which is referred to herein or delivered pursuant hereto, as between the Senior Note Trustee, the Senior Unsecured Debenture Trustee and Quadrangle (collectively, the "Creditors") the provisions of this Agreement will prevail, provided that nothing in this Agreement is intended to or will impair, as between any Grantor and any of the Creditors, the obligations of any Grantor to pay the Senior Obligations, including the Senior Guarantees, the Senior Unsecured Debenture Obligations and the Convertible Debenture Obligations (collectively, the "Obligations") when due. For greater certainty, as between each Creditor and any Grantor, the applicable debt documentation in respect of the applicable Obligations shall prevail.

(c) **No Rights Conferred on Grantors.** Nothing in this Agreement will be construed as conferring any rights upon any Grantor or any third party. The terms and conditions hereof are and will be for the sole and exclusive benefit of the Creditors. The Grantors, by their execution of this Agreement, hereby agree to be bound by and will act in accordance with the terms, provisions and intent of this Agreement; however, no Grantor will take any right, benefit or advantage in their being a party to this Agreement, and this Agreement may be amended, modified, supplemented or restated without notice to, or the consent of, the Grantors.

(d) **Consent.** The Grantors hereby irrevocably consent to each Creditor providing the other Creditor with such information, financial or otherwise, regarding the Grantors, any of their

Subsidiaries or Affiliates, the Obligations due to the Creditors and the Senior Security as may be deemed advisable by the Creditors from time to time.

(e) **Application of this Agreement.** The rights and priorities of the Creditors set out in this Agreement will apply irrespective of any matter or thing, including:

- (1) the lack of perfection, validity or enforceability of any provision of the Senior Security in favour of the Senior Note Trustee or any agreement forming part of the Obligations;
- (2) the time of perfection, creation, granting, execution, delivery, attachment, registration (to the extent registration is required), filing, crystallization or enforcement of any of the Obligations or the Senior Security or any part thereof;
- (3) the jurisdictions where the Senior Security is registered or the failure of any party to properly register or perfect the Senior Security in any particular jurisdiction;
- (4) the time of any loan, advance or other extension of credit made to a Grantor by any party;
- (5) the time of default or demand;
- (6) any priority otherwise accorded to the Obligations and the Senior Security under applicable law;
- (7) the provisions of the instruments or documents creating the Senior Security; or
- (8) any other matter whatsoever.

Any action taken or thing done by a party in contravention of this Agreement will be null and void and of no effect.

(f) **Waivers and Amendments.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by each of the Creditors, provided, that any amendment, supplement or other modification that imposes or modifies any duty, liability or obligation of any Grantor shall only be effective if such written instrument is executed by such Grantor. No Creditor will by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of any Creditor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by a Creditor of any right or remedy hereunder on any one occasion will not be construed as a bar to any right or remedy which such Creditor would otherwise have on any future occasion.

(g) **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

(h) **Counterparts.** This Agreement may be executed in any number of counterparts, all of which will be deemed to be an original and such counterparts taken together will constitute one agreement and any of the parties hereto may execute this Agreement by signing any such counterpart.

(i) **Further Assurances.** The Creditors agree to execute and deliver such further and other documents and perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part thereof, including all acts, deeds and agreements as may be necessary or desirable for the purpose of registering or filing notice of the terms of this Agreement.

(j) **Communication.** Any communication required or permitted to be given under this Agreement will be in writing and will be effectively made and given if (a) delivered personally, (b) sent by prepaid courier service or mail, or (c) sent by facsimile transmission or other similar means of electronic communication, in each case to the address or facsimile number of the relevant Creditor set out on the signature pages to this Agreement. Any communication so given will be deemed to have been given and to have been received on the day of delivery if so delivered, or on the day of facsimile transmission or sending by other means of recorded electronic communication provided that such day is a Business Day and the communication is so delivered or sent prior to 4:30 p.m. (local time at the place of receipt). Otherwise, such communication will be deemed to have been given and to have been received on the following Business Day. Any communication sent by mail will be deemed to have been given and to have been received on the fifth Business Day following mailing, provided that no disruption of postal service is in effect. Any Creditor may from time to time change its respective addresses or facsimile numbers for notice by giving written notice to the other in accordance with the provisions of this Section.

(k) **Successors and Assigns.**

- (1) This Agreement will enure to the benefit of, and be binding on, the Creditors and their successors and permitted assigns. All respective rights of the Creditors shall be assignable in accordance with the terms of the Senior Indenture, the Senior Unsecured Indenture and the Quadrangle Commitment, as applicable, and without the consent of the other Creditors, and any new Creditor shall obtain the benefit of this agreement without further action or consent of the other Creditors. Concurrently with the assignment of any of the Obligations by a Creditor the assignee shall execute an agreement in writing in favour of the other parties hereto agreeing to be bound by the provisions hereof in the same manner and to the same extent as the assignor and shall provide an executed copy of such agreement to each of the Creditors; and such assignment shall not be effective and shall not relieve the assignor of any liability hereunder until such assignee is bound by the terms hereof.
- (2) Neither the Senior Unsecured Debenture Trustee nor Quadrangle shall assign any of its or their respective obligations hereunder unless the proposed assignee shall execute an agreement in writing in favour of the Senior Note Trustee and, as applicable, the Senior Unsecured Debenture Trustee agreeing to be bound by the provisions hereof in the same manner and to the same extent as the assignor and shall provide an executed copy of such agreement to the Senior Note Trustee and, as applicable, the Senior Unsecured Debenture

Trustee; and such assignment shall not be effective and shall not relieve the assignor of any liability hereunder until such assignee is bound by the terms hereof.

(l) **Support Agreement.** The Senior Unsecured Debenture Trustee covenants in favour of the Senior Note Trustee that it shall not exercise any of its rights under the amended and restated support agreement (the "Support Agreement") dated as of April 29, 2011 between the Senior Unsecured Debenture Trustee and Quadrangle without prior written authorization and direction from the Senior Note Trustee.

(m) **Fees.** All fees and out of pocket expenses due to the Senior Note Trustee and the Senior Unsecured Debenture Trustee shall, in any insolvency proceedings, be paid in priority to any amounts owing to the Creditors on account of the Obligations.

(n) **Entire Agreement.** This Agreement contains the entire understanding of the parties with respect to the priority of the Obligations, the Senior Guarantees and the Senior Security and supersedes any prior agreements, undertakings, declarations, representations and understandings, both written and verbal, in respect of the priority of the Obligations, the Senior Guarantees and the Senior Security including, for greater certainty, the Support Agreement. There are no restrictions, agreements, promises, warranties, covenants or undertakings relating to the priority of the Obligations, the Senior Guarantees and the Senior Security other than those set forth in this Agreement.

(o) **Joinder.** Holdings shall only issue Subordinated Convertible Debentures if Investments shall have executed and delivered a form of joinder to this Agreement and to the Support Agreement and an acknowledgement of subordination substantially in the form of Schedule "E" to the Senior Unsecured Indenture, in each case reasonably satisfactory to the Senior Note Trustee and the Senior Unsecured Debenture Trustee.

(p) **Termination.** This Agreement will terminate upon indefeasible payment in full of all obligations and permanent cancellation or termination of the Senior Indenture, in respect of the relationship between the Senior Note Trustee and the other Creditors, and the Senior Unsecured Indenture, in the case of the relationship between the Senior Unsecured Debenture Trustee and Quadrangle.

Remainder of this page is intentionally left blank

The parties have executed this Agreement as of the day and year first written above.

Address:

Equity Financial Trust Company
200 University Avenue, Suite 400
Toronto, Ontario
M5H 4H1

Attention: Kathy Thorpe
Facsimile: (416) 361-0470

EQUITY FINANCIAL TRUST COMPANY, as
Trustee for and on behalf of the holders of the
Senior Notes

By: 

Name:

Kathy Thorpe

Title:

Senior Trust Officer

By: 

Name:

Title:

CAROLINOS
SENIOR ADVISOR TRUST SERVICES

Address:

QCP CW S.A.R.L.
412F route d'Esch
L-1030 Luxembourg
Grand-Duchy of Luxembourg
Attention: Luca Gallinelli
Facsimile: (011) 352-471101

QCP CW S.A.R.L.

By: M. Huber

Name:

Title:

Address:

Data & Audio-Visual
Enterprises Wireless Inc.
Suite 2300
Canada Trust Tower
Brookfield Place
161 Bay Street
Toronto, ON
M5J 2S1

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC.****By:****By:****Name:****Title:**

Attention: Joe Prodan, Chief
Financial Officer
Facsimile: (416) 650-9706

Address:

Data & Audio-Visual
Enterprises Holdings Inc.
Suite 2300
Canada Trust Tower
Brookfield Place
161 Bay Street
Toronto, ON
M5J 2S1

Attention: Joe Prodan, Chief
Financial Officer

Facsimile: (416) 650-9706

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC.**

By: _____

Name: _____

Title: _____

Address:

**DATA & AUDIO-VISUAL
ENTERPRISES LEASING INC.**

Suite 2300

Canada Trust Tower

Brookfield Place

161 Bay Street

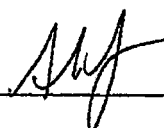
Toronto, ON

M5J 2S1

Attention: Joe Prodan, Chief
Financial Officer

Facsimile: (416) 650-9706

**DATA & AUDIO-VISUAL ENTERPRISES
LEASING INC.**

By: 

Name:

Title:

15959539.7

Exhibit “H”

This is Exhibit H referred to in the
affidavit of William Aziz
sworn before me, this 29th
day of September 2013

A COMMISSIONER FOR TAKING AFFIDAVITS

657

Execution Version

AMENDED AND RESTATED SUPPORT AGREEMENT

THIS AMENDED AND RESTATED SUPPORT AGREEMENT is made as
of April 29, 2011,

BETWEEN:

EQUITY FINANCIAL TRUST COMPANY, a trust company
incorporated under the federal Laws of Canada having an office in
the City of Toronto, in the Province of Ontario (hereinafter called
the "Debenture Trustee"),

- and -

QCP CW S.A.R.L., a société à responsabilité limitée organized
under the laws of Luxembourg (hereinafter called "Quadrangle"),

WHEREAS DAVE (as defined below) has issued certain Convertible Debentures
(as defined below) to Quadrangle pursuant to the Amended and Restated Commitment
Agreement (as defined below);

AND WHEREAS DAVE has entered into an amended and restated trust indenture as of
the date hereof (the "Trust Indenture") with the Debenture Trustee in respect of the issuance of
Debentures;

AND WHEREAS Quadrangle has agreed to support any Approved Plan (as defined
below) in accordance with the terms and conditions provided in this Agreement; and

AND WHEREAS the Debenture Trustee and Quadrangle entered into a support
agreement (the "Prior Agreement") dated as of the 17th day of December, 2009 which they wish
to amend and restate as follows:

NOW THEREFORE, in consideration of the premises and the covenants and
agreements herein contained, the receipt and sufficiency of which are hereby mutually
acknowledged, the parties agree as follows:

**ARTICLE 1
INTERPRETATION**

1.01 Definitions

Terms and expressions used in this Agreement that are defined in the Trust Indenture and
are not otherwise defined herein have the same meaning herein as in the Trust Indenture. In this
Agreement:

- 2 -

- (a) "Agreement" means this Amended and Restated Support Agreement and all instruments supplemental to or in amendment or confirmation of this Agreement;
- (b) "Amended and Restated Commitment Agreement" means the Second Amended and Restated Commitment Agreement dated as of April 29, 2011 among Quadrangle, DAVE and Data & Audio-Visual Enterprises Investments Inc.;
- (c) "Approved Plan" means a Plan which has been approved by a majority of the Debentureholders voting at a meeting of Debentureholders called to consider such Plan; provided that (i) such Plan shall provide that the holders of Convertible Debentures and Debentures shall be treated equally in all material respects, including without limitation, by providing for them to receive the same consideration thereunder (subject only to differences to account for different amounts of indebtedness on a pro rata basis), and (ii) no holder of Debentures shall receive or obtain any collateral benefit or other consideration in connection with the Plan not made available to the holders of Convertible Debentures on the same basis, including without limitation any right to subscribe for equity or other securities in connection with a Plan;
- (d) "Convertible Debentures" means any debentures or other similar debt instruments issued to Quadrangle or its Affiliates by DAVE including any debentures issued under the Amended and Restated Commitment Agreement;
- (e) "DAVE" means Data & Audio-Visual Enterprises Holdings Inc., a corporation incorporated under the Laws of Ontario and having its head office in the City of Toronto, in the Province of Ontario;
- (f) "Insolvency Laws" means any of the *Bankruptcy and Insolvency Act* (Canada), the *Companies' Creditors Arrangement Act* (Canada), and the *Winding-Up and Restructuring Act* (Canada), each as now and hereafter in effect, any successors to such statutes and any other applicable insolvency or other similar law of any jurisdiction, including any law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it;
- (g) "Plan" means any settlement offer, acquisition proposal, plan, arrangement or other similar proposal filed or to be filed under Insolvency Laws in respect of DAVE; and
- (h) "Transfer" means to directly or indirectly (i) sell, pledge, assign, hypothecate, encumber, grant and option with respect to, transfer or dispose of any participation interest (voting or otherwise) in or (ii) enter into an agreement, commitment or other arrangement to sell, pledge, assign, hypothecate, encumber grant an option with respect to, transfer or dispose of any participation or interest (voting or otherwise) in, or the act thereof.

1.02 Construction

In this Agreement, unless otherwise expressly stated or unless the context otherwise requires:

- (a) references to a "party" or "parties" are references to a party or parties to this Agreement, and references to "herein", "hereby", "hereunder", "hereof" and similar expressions are references to this Agreement and not to any particular Section, subsection or schedule;
- (b) references to an "Article", "Section", "subsection", "clause" or "Schedule" are references to an Article, section, subsection, clause or Schedule of or to this Agreement;
- (c) words importing the singular shall include the plural and vice versa, words importing gender shall include the masculine, feminine and neuter genders, and references to a "person" or "persons" shall include individuals, corporations, partnerships, associations, bodies politic and other entities, all as may be applicable in the context;
- (d) the use of headings is for convenience of reference only and shall not affect the construction or interpretation hereof;
- (e) whenever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation", whether or not they are in fact followed by those words or words of like import;
- (f) a reference to a statute includes all regulations and rules made pursuant to such statute and, unless otherwise specified, the provisions of any statute, regulation or rule which amends, supplements or supersedes any such statute, regulation or rule;
- (g) in the event that any date on which any action is required to be taken hereunder by any of the parties is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day; and
- (h) the recitals and the schedules attached to this Agreement are hereby incorporated by reference in this Agreement and form part hereof.

ARTICLE 2

QUADRANGLE'S OBLIGATIONS TO SUPPORT THE PLAN

2.01 Quadrangle's Support

Quadrangle hereby agrees, for so long as this Agreement is in effect and has not been terminated in accordance with the terms hereof:

- 4 -

- (a) to vote (or cause to be voted) all of its Convertible Debentures in favour of the approval, consent, ratification and adoption of the Approved Plan (and any actions required in furtherance thereof), to the extent such an Approved Plan exists, and not to withdraw or revoke such vote unless and until this Agreement is terminated in accordance with its terms;
- (b) not to Transfer any of the Convertible Debentures held by it, in whole or in part, unless the transferee agrees in writing to be bound by the terms of this Agreement. In the event that Quadrangle Transfers any of the Convertible Debentures, as a condition precedent to such Transfer, Quadrangle agrees to cause the transferee to execute and deliver a joinder agreement in customary form confirming the agreement of such transferee to be bound by the terms of this Agreement for so long as this Agreement shall remain in effect. Any Transfer of the Convertible Debentures in violation of the foregoing shall be deemed ineffective to Transfer any right to accept or reject the Plan;
- (c) not to vote for, consent to, propose or provide any support for any Plan, other than the Approved Plan only to the extent an Approved Plan does exist; and
- (d) if there is an Approved Plan, not to take any action directly or indirectly for the purpose of delaying, preventing, frustrating or impeding acceptance, confirmation or implementation of the Approved Plan or to take any action prohibited in this Agreement.

2.02 Additional Obligations of Quadrangle

Quadrangle hereby agrees, for so long as this Agreement is in effect and has not been terminated in accordance with the terms hereof, if an Approved Plan exists to:

- (a) support the approval of the Approved Plan and support the sanctioning thereof by any applicable court as promptly as practicable; and
- (b) execute any and all documents and perform any and all commercially reasonable acts required by this Agreement to satisfy all of its obligations hereunder.

2.03 Limitation

For greater certainty, Section 2.01 and Section 2.02 apply to restrict the exercise by Quadrangle of its rights as a holder of Convertible Debentures and shall not in any way restrict the exercise of any other rights it may have including any rights as a holder of equity securities of DAVE.

ARTICLE 3 REPRESENTATIONS AND WARRANTIES

3.01 Representations and Warranties of Quadrangle

Quadrangle represents and warrants to the other parties to this Agreement that:

- 5 -

- (a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all requisite corporate, partnership or other power and authority to enter into this Agreement and to carry out the transactions contemplated by, and perform its respective obligations under, this Agreement;
- (b) the execution and delivery of this Agreement and the performance of its obligations hereunder have been duly authorized by all necessary corporate, partnership or other action on its part;
- (c) the execution, delivery and performance by it of this Agreement do not and shall not:
 - (i) violate any provision of law, rule or regulation applicable to it or any of its affiliates or its certificate of incorporation or bylaws or other organizational documents or those of any of its subsidiaries; or
 - (ii) conflict with, result in the breach of or constitute (with due notice or lapse of time or both) a default under any material contractual obligations to which it or any of its affiliates is a party or under its certificate of incorporation, bylaws or other governing instruments;
- (d) the execution, delivery and performance by it of this Agreement do not and shall not require any registration or filing with, the consent or approval of, notice to, or any other action with respect to, any Governmental Entity or regulatory body;
- (e) assuming the due execution and delivery of this Agreement by each of the other parties, this Agreement is a legally valid and binding obligation of it, enforceable against it in accordance with its terms, subject to laws of general application and bankruptcy, insolvency and other similar laws affecting creditors' rights generally and general principles of equity; and
- (f) to the best of the party's knowledge after due inquiry of relevant personnel, there is no proceeding, claim or investigation pending before any Governmental Entity, or threatened against the party or any of its assets that, individually or in the aggregate, could reasonably be expected to have an adverse effect on the party's ability to execute and deliver this Agreement and consummate the transactions contemplated by this Agreement.

3.02 Additional Representations and Warranties of Quadrangle

Quadrangle further represents and warrants to the other signatories to this Agreement that:

- (a) as of the date of this Agreement, it is the beneficial owner of the Convertible Debentures as described in the Amended and Restated Commitment Agreement and no other Convertible Debentures are outstanding as of this date;
- (b) it is a sophisticated party with sufficient knowledge and experience to evaluate the terms and conditions of this Agreement; and

- 6 -

- (c) as of the date of this Agreement, it is not aware of any event that, due to any fiduciary or similar duty to any other Person, would prevent it from taking any action required of it under the terms of this Agreement.

ARTICLE 4 TERMINATION

4.01 Termination Events

Each party shall have the right upon notice to the other party to terminate this Agreement and the obligations of the parties hereunder upon the any of the following to occur:

- (a) the Convertible Debentures shall have been paid in full by DAVE;
- (b) the Debentures shall have been paid in full and final satisfaction and all of the documents under the Trust Indenture shall have been terminated as confirmed in writing by the Debenture Trustee; or
- (c) an agreement in writing executed by all the parties.

Each party shall be responsible and remain liable for any breach of this Agreement by such party that occurs prior to the termination of this Agreement.

4.02 Effect of Termination

Upon termination of this Agreement, this Agreement shall be of no further force and effect and each party shall be released from its commitments, undertakings, and agreements under or related to this Agreement and each party shall have the rights and remedies that it would have had available to it had it not entered into this Agreement, and shall be entitled to take all actions, whether with respect to the restructuring or otherwise, that it would have been entitled to take had it not entered into this Agreement.

ARTICLE 5 GENERAL

5.01 Further Assurances

Each of the Debenture Trustee, upon the advice of counsel, and Quadrangle will from time to time execute and deliver all such further information, documents and instruments as another party may reasonably require to consummate or confirm the transactions provided for in this Agreement, to accomplish the purpose of this Agreement or to assure to the other parties the benefits of this Agreement and, in the event the Approved Plan becomes effective, to document or evidence any of the transactions or events set out in the Approved Plan. Each of the Debenture Trustee, upon the advice of counsel, and Quadrangle agrees to negotiate and develop any such documents or instruments as may be reasonably required in a good faith manner consistent with the intent of this Agreement.

- 7 -

5.02 Time of Essence

Any date, time or period referred to in this Agreement shall be of the essence, except to the extent to which the parties agree in writing to vary any date, time or period, in which event the varied date, time or period shall be of the essence.

5.03 Benefit of the Agreement

This Agreement will enure to the benefit of and be binding upon the respective heirs, executors, administrators, other legal representatives, successors and permitted assigns of the parties.

5.04 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes the Prior Agreement.

5.05 Severability

If any provision of this Agreement is determined by any court of competent jurisdiction to be illegal or unenforceable, that provision will be severed from this Agreement and the remaining provisions will continue in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any of the parties.

5.06 Amendments and Waivers

No amendment to this Agreement will be valid or binding unless set forth in writing and duly executed by both of the parties. No waiver of any breach of any provision of this Agreement will be effective or binding unless made in writing and signed by the party purporting to give the same, and unless otherwise provided, will be limited to the specific breach waived. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise.

5.07 Assignment

Neither this Agreement nor any of the rights, interests or obligations contemplated hereunder may be assigned by any party, in whole or in part (whether by operation of law or otherwise), except that this Agreement and any of the rights and obligations under it may be assigned by Quadrangle as set forth and to the extent permitted under Section 2.01(b) or (ii) the Debenture Trustee, on notice to Quadrangle and provided that such party shall remain bound by the provisions of this Agreement.

5.08 Notices

Any demand, notice or other communication to be given in connection with this Agreement must be given in writing and will be given by personal delivery or by electronic means of communication addressed to the recipient as follows:

- 8 -

(i) To the Debenture Trustee:

200 University Avenue
Suite 400
Toronto, ON M5H 4R1

Attention: Corporate Trust

(ii) To Quadrangle:

QCP CW S.A.R.L.
412F route d'Esch
L-1030 Luxembourg
Grand-Duchy of Luxembourg

Attention: Luca Gallinelli
Facsimile: (011) 352-471101

with a copy to:

Quadrangle Capital Partners
375 Park Avenue
New York, N.Y. 10152

Attention: Michael Huber
Facsimile: (212) 418-1724
E-mail: Michael.Huber@quadranglegroup.com

with a copy, which shall not constitute notice, to:

McCarthy Tétrauli
Suite 5300, TD Bank Tower
Toronto Dominion Centre
Toronto, ON
M5K 1E6

Attention: Andrew Armstrong
Facsimile: (416) 601-8310
E-mail: aarmstro@mccarthy.ca

or to such other street address, individual or electronic communication number or address as may be designated by notice given by any party to the other parties. Any demand, notice or other communication given by personal delivery will be conclusively deemed to have been given on the day of actual delivery thereof and, if given by registered mail, on the second Business Day following the deposit thereof in the mail and, if given by electronic communication, on the day of transmittal thereof if given during the normal business hours of the recipient and on the Business Day during which such normal business hours next occur if not given during such hours on any day. If the party giving any demand, notice or other communication knows or ought reasonably to know of any difficulties with the postal system that might affect the delivery of

- 9 -

mail, any such demand, notice or other communication may not be mailed but must be given by personal delivery or by electronic communication.

5.09 Remedies Cumulative

The right and remedies of the parties hereunder 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.

5.10 No Third Party Beneficiaries

This Agreement is not intended to confer any rights or remedies upon any other Person than the parties to this Agreement and the Debentureholders.

5.11 Governing Law

This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

5.12 Counterparts

This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which taken together will be deemed to constitute one and the same instrument.

5.13 Electronic Execution

Delivery of an executed signature page to this Agreement by any party by electronic transmission will be as effective as delivery of a manually executed copy of the Agreement by such party.

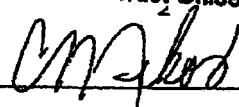
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- 10 -

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

EQUITY FINANCIAL TRUST COMPANYPer: 

Name: Kathy Thorpe
Title: Senior Trust Officer

Per: 

Name: Carol Weiss
Title: SENIOR ADVISORY TRUST SERVICES

QCP CW S.A.R.L

Per: _____

Name: _____
Title: _____

US962975

- 10 -

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first above written.

EQUITY FINANCIAL TRUST COMPANY

Per: _____

Name: _____

Title: _____

Per: _____

Name: _____

Title: _____

QCP CW S.A.R.L

Per: _____

Name: _____

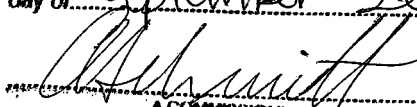
Title: _____

3962975

Exhibit “I”

This is Exhibit 1 referred to in the
affidavit of William Aziz
sworn before me, this 29th
day of September 2013

668


A COMMISSIONER IN CHARGE OF TAKING AFFIDAVITS

ACKNOWLEDGMENT OF SUBORDINATION

TO: EQUITY FINANCIAL TRUST COMPANY, as collateral agent for the Second Lien Secured Notes (defined below) (the "Collateral Agent")

FROM: EQUITY FINANCIAL TRUST COMPANY (the "Debenture Trustee")

RE: Subordination of Indebtedness

RECITALS:

WHEREAS Data & Audio Visual Enterprises Holdings Inc. ("**Holdings**") and the Debenture Trustee entered into a trust indenture amended and restated as of April 29, 2011 (as the same may be further amended, amended and restated, modified, supplemented or replaced from time to time, the "**Original Trust Indenture**") providing for the issuance of an unlimited aggregate principal amount of senior unsecured debentures (the "**Debentures**") of the Company;

AND WHEREAS Holdings and the Debenture Trustee have entered into a supplemental indenture dated February 1, 2013 to the Original Trust Indenture (the "**Supplemental Indenture**"; the Original Trust Indenture, as amended by the Supplemental Indenture, the "**Trust Indenture**") in respect of the Debentures;

AND WHEREAS Wireless and the Collateral Agent, among others, have entered into a note purchase, guarantee and backstop agreement (as the same may be amended, amended and restated, modified, supplemented or replaced from time to time, the "**Note Purchase Agreement**") in respect of the issuance of second lien secured notes (the "**Second Lien Secured Notes**");

AND WHEREAS the terms of the Trust Indenture provides that all indebtedness under or relating to the Trust Indenture and/or any of the Debentures (or any removal, replacement or alternate indebtedness) shall be fully postponed and subordinated and rank behind all Senior Indebtedness (as defined in the Trust Indenture) to the extent and in the manner provided in the Subordination Provisions (as defined below).

AND WHEREAS, pursuant to the Trust Indenture, Holdings or any Subsidiaries (as defined in the Trust Indenture) of Holdings are not prohibited from incurring any Indebtedness (as defined in the Trust Indenture) under the Note Purchase Agreement and the Second Lien Secured Notes issued thereunder or providing any guarantees associated therewith;

AND WHEREAS unless otherwise indicated herein, all terms defined or given a particular meaning, interpretation or construction in the Note Purchase Agreement or the Trust Indenture shall have the same meaning, interpretation and/or construction herein;

AND WHEREAS Schedule "A" to this Agreement sets forth the subordinations provisions set out in the Trust Indenture (the "**Subordination Provisions**");

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the sum of \$1.00 of lawful money of Canada now paid by the Collateral Agent to the Debenture Trustee and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the Debenture Trustee), the parties agree with each other as follows:

- 1 The Debenture Trustee, on behalf of the holders of the Debentures, agrees with and in favour of the Collateral Agent that all indebtedness and all security (if any) and all claims, liabilities and other obligations under or relating to the Trust Indenture and/or any of the Debentures (or any renewal, replacement or alternate indebtedness) held by the holders of the Debentures (and the successive respective holders of the Debentures) shall be fully postponed and subordinated and

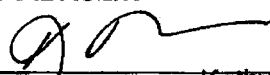
renewal, replacement or alternate indebtedness) held by the holders of the Debentures (and the successive respective holders of the Debentures) shall be fully postponed and subordinated and rank behind, in all respects, all indebtedness and any security and all claims, liabilities and all other obligations under or relating to the Note Purchase Agreement to the extent and in the manner provided in the Subordination Provisions.

- 2 The Debenture Trustee, on behalf of the holders of the Debentures, acknowledges that all indebtedness under the Note Purchase Agreement is Senior Indebtedness (as such term is defined in the Subordination Provisions, the Trust Indenture and/or any Debenture).
- 3 The Debenture Trustee, on behalf of the holders of the Debentures, agrees that each instrument issued to evidence any Debenture or indebtedness owing to the holders of the Debentures under the Trust Indenture or any Debenture (or any renewal, replacement or alternate indebtedness) shall provide that it shall be subordinated and postponed to and rank behind, in all respects, all indebtedness under or relating to the Note Purchase Agreement to the extent and in the manner provided in the Subordination Provisions.
- 4 The Debenture Trustee, on behalf of the holders of the Debentures, agrees that the Collateral Agent shall at all times be entitled to rely on and to enforce all provisions relating to the subordination of any claims, security, liabilities, indebtedness or other obligations contained in the Subordination Provisions, the Trust Indenture and/or any Debenture and any and all related provisions as if it were a party thereto.
- 5 The Debenture Trustee, on behalf of the holders of the Debentures, further agrees that it shall not agree on behalf of the holders of the Debentures or on its own behalf to any change, amendment, variation or modification to or of any provision in the Trust Indenture or any Debenture held by the holders of the Debentures (and the successive respective holders of the Debentures) relating to any subordination of any indebtedness without the prior written consent of the Collateral Agent.
- 6 This Agreement shall continue in full force and effect notwithstanding any extension, renewal, modification, supplement, change, amendment and/or amendment and restatement of the Note Purchase Agreement or any Collateral in connection therewith and/or any release, sale or exchange of any such Security.
- 7 This Agreement shall be binding upon the undersigned, its administrators, successors and assigns and shall enure to the benefit of the Collateral Agent and each of the holder of Second Lien Secured Notes, and each of their respective administrators, successors and assigns.
- 8 This Agreement, and all matters arising out of or related to this Agreement, shall be governed by, and construed and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable thereto.
- 9 This Agreement may be executed in counterparts, each of which shall constitute an original but all of which when taken together shall constitute a single contract. Delivery of an executed signature page to this Agreement by facsimile transmission (including email) shall be effective as delivery of a manually signed counterpart of this Agreement.

[Remainder of this page intentionally left blank]

Dated this 6 day of February, 2013.

**EQUITY FINANCIAL TRUST COMPANY, AS
COLLATERAL AGENT**

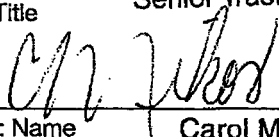
Per: 

Name: Name

Kathy Thorpe

Title: Title

Senior Trust Officer

Per: 

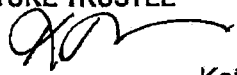
Name: Name

Carol Mikos

Title: Title

Senior Advisor Trust Services

**EQUITY FINANCIAL TRUST COMPANY, AS
DEBENTURE TRUSTEE**

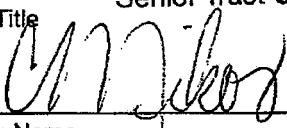
Per: 

Name: Name

Kathy Thorpe

Title: Title

Senior Trust Officer

Per: 

Name: Name

Carol Mikos

Title: Title

Senior Advisor Trust Services

SCHEDULE "A"**ARTICLE 5****SUBORDINATION OF DEBENTURES****5.1 Applicability of Article**

The indebtedness, liabilities and obligations of the Company hereunder (except as provided in Section 12.15.) or under the Debentures, whether on account of principal, interest or otherwise, (collectively the "Debenture Liabilities"), shall be fully and effectively subordinated and postponed and subject in right of payment, to the extent and in the manner hereinafter set forth in the following sections of this Article 5, to the full and final payment of all Senior Indebtedness of the Company and each holder of any such Debenture by his acceptance thereof agrees to and shall be bound by the provisions of this Article 5.

The Senior Indebtedness shall continue to be Senior Indebtedness and shall be entitled to the benefits of this Article 5 irrespective of any amendment, modification or waiver of any term (other than a release, discharge or other event that results in the applicable Indebtedness no longer being Senior Indebtedness) of such Senior Indebtedness and notwithstanding that no express written subordination agreement may have been entered into between the holders of such Senior Indebtedness and the Debenture Trustee or any of the Debentureholders.

5.2 Order of Payment

In the event of any voluntary or involuntary dissolution, winding-up or liquidation, or any bankruptcy, insolvency, receivership, creditor enforcement or realization or other similar proceedings relating to the Company or any of its property (whether voluntary or involuntary, partial or complete) or any other marshalling of the assets and liabilities of the Company, any reorganization or any sale, distribution or other transfer of all or substantially all of the assets of the Company:

- (a) all Senior Indebtedness shall first be paid in full, or provision made for such payment, before any payment or distribution is made on account of the Debenture Liabilities;
- (b) any payment or distribution of assets of the Company, whether in cash, property or securities, to which the holders of the Debentures or the Debenture Trustee on behalf of such holders would be entitled except for the provisions of this Article 5, shall be paid or delivered by the trustee in bankruptcy, receiver, assignee for the benefit of creditors, or other liquidating agent making such payment or distribution, directly to the holders of Senior Indebtedness or their representative or representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Senior Indebtedness may have been issued, to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness before any payment or distribution is made to the Debentureholders or the Debenture Trustee; and
- (c) the Senior Creditors or a receiver or a receiver-manager of the Company or of all or part of its assets or any other enforcement agent may sell, mortgage, or otherwise dispose of the Company assets in whole or in part, free and clear of all Debenture Liabilities and without the approval of the Debentureholders or the Debenture Trustee or any requirement to account to the Debenture Trustee or the Debentureholders except in respect of any excess after discharge of all Senior Indebtedness.

The rights and priority of the Senior Indebtedness and the subordination pursuant hereto shall not be affected by:

- (i) the time, sequence or order of creating, granting, executing, delivering of, or registering, perfecting or failing to register or perfect any security notice, caveat, financing statement or other notice in respect of the Senior Security;
- (ii) the time or order of the attachment, perfection or crystallization of any security constituted by the Senior Security;
- (iii) the taking of any collection, enforcement or realization proceedings pursuant to the Senior Indebtedness;
- (iv) the date of obtaining of any judgment or order of any bankruptcy court or any court administering bankruptcy, insolvency or similar proceedings as to the entitlement of the Senior Creditors, or any of them or the Debentureholders or other Trustee or any of them to any money or property of the Company;
- (v) the failure to exercise any power or remedy reserved to the Senior Creditors under documents evidencing the Senior Indebtedness or under the Senior Security or to insist upon a strict compliance with any terms thereof;
- (vi) whether any Senior Security is now perfected, hereafter ceases to be perfected, is avoidable by any trustee in bankruptcy or like official or is otherwise set aside, invalidated or lapses;
- (vii) the date of giving or failing to give notice to or making demand upon the Company; or
- (viii) any other matter whatsoever.

5.3 Subrogation to Rights of Holders of Senior Indebtedness

Subject to the irrevocable and unconditional prior payment in full of all Senior Indebtedness, the holders of the Debentures shall be subrogated to the rights of the holders of Senior Indebtedness or their representative or representatives, or the trustee or trustees under any indenture pursuant to which any instrument evidencing any such Senior Indebtedness may have been issued, to receive payments or distributions of assets of the Company to the extent of the application thereto of such payments or other assets which would have been received by the holders of the Debentures but for the provisions hereof until the Payment Amount of, and accrued and unpaid interest on, the Debentures shall be paid in full, and no such payments or distributions to the holders of the Debentures of cash, property or securities, which otherwise would be payable or distributable to the holders of the Senior Indebtedness, shall, as between the Company, its creditors other than the holders of Senior Indebtedness, and the holders of Debentures, be deemed to be a payment by the Company to the holders of the Senior Indebtedness or on account of the Senior Indebtedness, it being understood that the provisions of this Article 5 are and are intended solely for the purpose of defining the relative rights of the holders of the Debentures, on the one hand, and the holders of Senior Indebtedness, on the other hand.

The Debenture Trustee, for itself and on behalf of each of the Debentureholders, hereby waives any and all rights to require a Senior Creditor to pursue or exhaust any rights or remedies with respect to the Company or any property and assets subject to the Senior Security or in any other manner to require the marshalling of property, assets or security in connection with the exercise by the Senior Creditors of any rights, remedies or recourses available to them.

5.4 Obligation to Pay Not Impaired

Nothing contained in this Article 5 or elsewhere in this Indenture or in the Debentures is intended to or shall impair, as between the Company, its creditors other than the holders of Senior Indebtedness, and

the holders of the Debentures, the obligation of the Company, which is absolute and unconditional, to pay to the holders of the Debentures the aggregate of all Payment Amounts, including unpaid interest on, the Debentures, as and when the same shall become due and payable in accordance with their terms, or affect the relative rights of the holders of the Debentures and creditors of the Company other than the holders of the Senior Indebtedness, nor shall anything herein or therein prevent the Debenture Trustee or the holder of any Debenture from exercising all remedies otherwise permitted by applicable Laws or under this Indenture upon default under this Indenture, subject to the rights, if any, under this Article 5 of the holders of Senior Indebtedness.

5.5 No Payment if Senior Indebtedness in Default

- (a) No payment of any Payment Amount of, or interest (or any other amounts payable) in respect of the Debentures (including the Initial Debentures) or in respect of any Redemption Price or Offer Price in respect of any such Debentures may be made, and neither the Debenture Trustee nor any Debentureholder will be entitled to make demand, accelerate, take any enforcement action of any nature whatsoever, exercise any remedy or institute proceedings (other than as may be necessary to preserve a limitation period) for the collection of, or receive any payment or benefit (including, without limitation, by setoff, combination of accounts or realization of security or otherwise in any manner whatsoever) on account of Indebtedness represented by the Debentures:
 - (i) in a manner inconsistent with the terms (as they exist on the date of issue) of the Debentures;
 - (ii) at any time when an event of default has occurred under Senior Indebtedness, and such event of default is continuing and notice of such event of default has been given by or on behalf of the holders of such Senior Indebtedness to the Company unless and until such Senior Indebtedness has been paid and satisfied in full or such event of default shall have been cured or waived in writing in accordance with the provisions of such Senior Indebtedness; or
 - (iii) if the making of any such payment or the taking of any such action would create (including if by the lapse of time or giving of notice), an event of default under any Senior Indebtedness unless and until such Senior Indebtedness has been satisfied in full or the making of any such payment or taking of such action would no longer create (including if by the lapse of time or giving of notice), an event of default under any Senior Indebtedness.
- (b) If, notwithstanding Section 5.2(b) or 5.5(a), the Debenture Trustee is notified or has actual knowledge (without due inquiry) that it has received payment when such payment should have been paid to the holders of Senior Indebtedness pursuant to Section 5.2(b) or when payment under the Debentures is prohibited by Section 5.5(a), as the case may be, but not otherwise, such payment shall be held in trust for the benefit of, and shall be paid or delivered to, the holders of the Senior Indebtedness or their respective representative or representatives, or to the trustee or trustees under which any instruments evidencing such Senior Indebtedness may have been issued, as their respective interests may appear, as calculated by the Company, to the extent necessary to pay such Senior Indebtedness in full, in cash, after giving effect to any other concurrent payment or distribution to or for the benefit of the holders of such Senior Indebtedness.

5.6 Payment on Debentures Permitted

Nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall affect the obligation of the Company to make, or prevent the Company from making, at any time except as prohibited by Section 5.5, any payment of Payment Amount of, or interest on, the Debentures, including

as part of any Redemption Price. The fact that any such payment is prohibited by Section 5.5 shall not prevent the failure to make such payment from being an Event of Default hereunder. Except as prohibited by Section 5.5, nothing contained in this Article 5 or elsewhere in this Indenture, or in any of the Debentures, shall prevent the application by the Debenture Trustee of any monies deposited with the Debenture Trustee hereunder for the purpose, to the payment of or on account of the Debenture Liabilities.

5.7 Confirmation of Subordination

Each holder of Debentures by his or her acceptance of the Debentures authorizes and directs the Debenture Trustee on his behalf to take such action as may be necessary or appropriate to effect the subordination as provided in this Article 5 and appoints the Debenture Trustee his attorney-in-fact for any and all such purposes (and the successive respective holders of the Debentures by taking and holding the same shall be conclusively deemed to have so appointed the Debenture Trustee). Upon request of the Company, and upon being furnished with an Officer's Certificate stating that one or more named Persons are Senior Creditors, or is the representative or representatives of such Senior Creditors, or is the trustee or trustees under which any instrument evidencing such Senior Indebtedness may have been issued, and specifying the amount and nature of the Senior Indebtedness of such Senior Creditor, the Debenture Trustee shall enter into a written agreement or agreements with the Company and the Person or Persons named in such Officer's Certificate to more fully specify the terms and conditions of the subordination set out in the Indenture, or in any of the Debentures. Such agreement shall be conclusive evidence that the Indebtedness specified therein is Senior Indebtedness, provided that nothing therein shall affect the subordination provisions contained herein or impair the rights of any Senior Creditor who has not entered into such an agreement to rely upon and enforce such subordination provisions. In addition, as attorney-in-fact for the Debentureholders (and the successive respective holders of the Debentures) as provided herein, the Debenture Trustee shall have the right, including, without limitation, to execute an acknowledgement of subordination, in the form set out in Schedule "E" attached to the Indenture, for the benefit of Senior Creditors from time to time.

5.8 Knowledge of Debenture Trustee

Notwithstanding the provisions of this Article 5 or any provision in this Indenture or in the Debentures, the Debenture Trustee will not be charged with knowledge of any Senior Indebtedness (other than the First Lien Senior Secured Notes) or of any default in the payment thereof, or of the existence of any other fact that would prohibit the making of any payment of monies to or by the Debenture Trustee, or the taking of any other action by the Debenture Trustee, unless and until the Debenture Trustee has received written notice thereof from the Company, any Debentureholder or any Senior Creditor.

5.9 Rights of Debentureholders of Senior Indebtedness Not Impaired

No right of any present or future holder of any Senior Indebtedness to enforce the subordination herein will at any time or in any way be prejudiced or impaired by any act or failure to act on the part of the Company or by any non-compliance by the Company with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with.

5.10 Altering the Senior Indebtedness

The holders of the Senior Indebtedness have the right to extend, renew, modify, supplement, amend or amend and restate the terms of the Senior Indebtedness or any security therefor and to release, sell or exchange such security and otherwise to deal freely with the Company, all without notice to or consent of the Debentureholders or the Debenture Trustee and without affecting the provisions of this Article 5 or the other liabilities and obligations of the parties to this Indenture or the Debentureholders or the Debenture Trustee.

5.11 Additional Indebtedness

Subject to Section 6.14 of the Indenture, the Indenture does not restrict the Company from incurring additional Senior Indebtedness or other Indebtedness for borrowed money (including any Indebtedness ranking subordinated pari passu with any Debentures) or otherwise or mortgaging, pledging or charging its properties to secure any Indebtedness. Subject to Section 6.14, neither this Indenture nor any Debenture restricts any Subsidiary of the Company from incurring any Indebtedness, whether secured or unsecured, or whether senior or subordinated.

5.12 Invalidated Payments

In the event that any of the Senior Indebtedness shall be paid in full and subsequently, for whatever reason, such formerly paid or satisfied Senior Indebtedness becomes unpaid or unsatisfied, the terms and conditions of this Article 5 shall be reinstated and the provisions of this Article 5 shall again be operative until all Senior Indebtedness is repaid in full, provided that such reinstatement shall not give the Senior Creditors any rights or recourses against the Debenture Trustee or the Debentureholders for amounts paid to the Debentureholders more than 2 years following payment to the Debentureholder.

5.13 Contesting Security

The Debenture Trustee, for itself and on behalf of the Debentureholders, agrees that it shall not contest or bring into question the validity, perfection or enforceability of any of the Senior Security or Senior Indebtedness, or the relative priority of the Senior Security or Senior Indebtedness.

Exhibit “J”



Consolidated Balance Sheet

July 31, 2013

<i>(Unaudited)</i>		
Assets	Cash & Cash Equivalents	\$13,052,425
	Accounts Receivable	\$2,085,114
	Inventory	\$193,800
	Prepaid Expenses	\$4,394,804
	Current Assets	\$19,726,143
	Property and Equipment	\$95,778,197
	Intangible Assets	\$246,987,862
	Non-Current Assets	\$342,766,059
	Total Assets	\$362,492,202
Liabilities	Accounts Payable & Accrued Liabilities	(\$28,512,669)
	Deferred Revenue	(\$6,839,580)
	Loan Payable	(\$43,250,000)
	Current Liabilities	(\$78,602,249)
	Long-Term Debt	(\$386,038,612)
	Non-Current Liabilities	(\$386,038,612)
Total Liabilities		(\$464,640,861)
Equity	Ordinary Shares	(\$252,000,010)
	Other Reserves	(\$77,659,289)
	Deficit	\$431,807,958
	Total Equity	\$102,148,659
Total Liabilities and Equity		(\$362,492,202)

This is Exhibit J referred to in the
 affidavit of William Aziz
 sworn before me, this 29th
 day of September 2013
[Signature]
 A COMMISSIONER IN CHIEF TAKING AFFIDAVITS



Consolidated Statement of Loss

For the seven months ended July 31, 2013

(Unaudited)

Revenue	\$46,864,490
Goods and Services Purchased	\$53,756,943
Employee Related Expenses	\$9,098,021
Depreciation and Amortization	\$11,429,217
Operating Loss	(\$27,419,692)
Finance Income	(\$100,117)
Finance Cost	\$44,622,130
Other	\$16,837
	(\$44,538,851)
Net Loss	(\$71,958,542)



Consolidated Cash Flow Statement

For the seven months ended July 31, 2013

(Unaudited)

Operating Activities

Net Income	(71,958,542)
Long-term Accrued Interest & Non-cash Finance Costs	31,155,411
Depreciation and Amortization	11,429,217
Share-based payments	363,000
Other Non-cash Items	42,457
Net Change in non-cash working capital	(8,620,896)

Cash Used in Operating Activities

(37,589,353)

Investing Activities

Capital Expenditures	(5,978,490)
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Cash Used in Investing Activities

(5,978,490)

Financing Activities

Proceeds from issuance of debt	34,004,519
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Cash Provided by Financing Activities

34,004,519

Total Change in Cash

(9,563,324)

Beginning Cash

\$22,615,749

Ending Cash

\$13,052,425

**Data and Audio-Visual Enterprises
Holdings Inc.**

Unaudited Interim Consolidated Financial Statements
For the three and six months ended June 30, 2013 and
2012

Data and Audio-Visual Enterprises Holdings Inc.**Unaudited Consolidated Statements of Financial Position**

	As at June 30, 2013 \$ (unaudited)	As at December 31, 2012 \$ (audited)
Assets		
Current assets		
Cash	16,058,692	22,615,749
Short-term investments	-	-
Accounts receivable	3,086,193	4,670,438
Prepaid expenses	4,690,292	5,845,107
Inventory	295,205	373,313
Total current assets	<u>24,130,382</u>	<u>33,504,607</u>
Non-current assets		
Property and equipment	97,417,634	106,807,431
Intangible assets	247,012,435	247,149,972
Derivative assets	-	-
Total non-current assets	<u>344,430,069</u>	<u>353,957,403</u>
Total assets	<u>368,560,451</u>	<u>387,462,010</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	29,941,424	46,528,919
Deferred revenue	7,007,180	7,357,525
Loan Payable	43,250,000	-
Total current liabilities	<u>80,198,604</u>	<u>53,886,444</u>
Non-current liabilities		
Long-term debt	382,715,789	364,128,682
Derivative liabilities	-	-
Total liabilities	<u>462,914,393</u>	<u>418,015,126</u>
Equity		
Ordinary shares	252,000,010	252,000,010
Other reserves	77,609,289	77,296,290
Deficit	(423,963,241)	(359,849,416)
Total equity	<u>(94,353,941)</u>	<u>(30,553,116)</u>
Total liabilities and equity	<u>368,560,451</u>	<u>387,462,010</u>

Going Concern (note 1)

Data and Audio-Visual Enterprises Holdings Inc.

Unaudited Consolidated Statements of Comprehensive Loss

For the three and six months ended June 30, 2013

	Three months ended		Six months ended	
	June 30, 2013	June 30, 2012	June 30, 2013	June 30, 2012
	\$	\$	\$	\$
Revenue	20,622,638	16,412,341	40,349,390	31,956,769
Goods and services purchased	21,751,208	23,404,903	47,532,978	49,333,126
Employee related expenses	3,854,004	5,121,955	8,077,085	10,920,733
Depreciation and amortization	4,920,584	4,564,498	9,827,303	8,876,919
Operating loss	(9,903,159)	(16,679,015)	(25,087,976)	(37,174,009)
Finance income	(44,023)	(70,708)	(88,102)	(225,528)
Finance costs	20,413,807	10,515,617	39,156,583	24,171,097
Other	(62,875)	(45,381)	(42,633)	322,090
Loss for the period	(30,210,068)	(27,078,543)	(64,113,825)	(61,441,668)
Other comprehensive income (loss)	-	-	-	-
Total comprehensive loss for the period	(30,210,068)	(27,078,543)	(64,113,825)	(61,441,668)
Basic and fully diluted loss per share	(\$1.20)	(\$1.07)	(\$2.54)	(\$2.44)
Weighted average number of ordinary shares outstanding	25,200,001	25,200,001	25,200,001	25,200,001

Data and Audio-Visual Enterprises Holdings Inc.

Unaudited Consolidated Statements of Cash Flows

For the three and six months ended June 30, 2013

	Three months ended		Six months ended	
	June 30, 2013	June 30, 2012	June 30, 2013	June 30, 2012
	\$	\$	\$	\$
Cash flow from operating activities				
Loss for the year	(30,210,068)	(27,078,543)	(64,113,825)	(61,441,668)
Items not affecting cash:				
Long-term accrued interest and non-cash finance	14,216,256	6,241,071	27,832,588	14,294,330
Depreciation and amortization	4,920,584	4,564,498	9,827,303	8,876,919
Change in the value of derivative instruments	-	(1,500,000)	-	(500,000)
Increase (decrease) in inventory provisions	(304,007)	(233,348)	98,327	(270,497)
Share-based payments	150,000	416,000	313,000	1,526,000
Impairment losses on property and equipment	(11,685)	(24,656)	(11,685)	1,486
Issuance of warrants	-	1,168,500	-	1,168,500
Changes in non-cash working capital:				
(Increase) decrease in accounts receivable	2,555,794	278,509	1,504,396	7,360,796
(Increase) decrease in prepaid expenses	618,637	(39,565)	1,154,814	(66,545)
(Increase) decrease in inventory	475,197	902,296	(20,218)	(584,630)
Increase (decrease) in accounts payable and accrued liabilities	1,651,410	9,985,819	(11,653,406)	(10,198,907)
Increase (decrease) in deferred revenue	(687,249)	399,771	(350,345)	276,986
	(6,625,132)	(4,919,648)	(35,419,052)	(39,557,230)
Cash flow from investing activities				
Capital expenditures	(2,097,899)	(2,332,295)	(5,142,524)	(5,054,465)
Short-term investments	-	-	-	29,999,494
	(2,097,899)	(2,332,295)	(5,142,524)	24,945,029
Cash flow from financing activities				
Proceeds from issuance of debt	10,000,000	-	34,004,519	-
	10,000,000	-	34,004,519	-
Net change in cash and cash equivalents	1,276,969	(7,251,943)	(6,557,057)	(14,612,201)
Cash and cash equivalents - Beginning of period	14,781,723	31,579,209	22,615,749	38,939,467
Cash and cash equivalents - End of period	16,058,692	24,327,266	16,058,692	24,327,266
Supplemental information				
Interest paid	1,324,507	-	10,814,092	9,262,500
Income taxes paid	-	-	-	-

Data and Audio-Visual Enterprises Holdings Inc.

Note to the Unaudited Interim Consolidated Financial Statements

June 30, 2013

1. Going Concern

For the three and six month periods ended June 30, 2013 the Company reported a loss of \$30,210,068 and \$64,113,825, respectively and a deficit of \$423,963,241 at that date. In addition to its ongoing working capital requirements and other commitments, the Company currently projects that it will continue to experience significant losses and negative cash flows for the foreseeable future. These circumstances lend significant doubt as to the ability of the Company to meet its obligations as they come due and, accordingly, the ultimate appropriateness of the use of the going concern assumption.

In recognition of these circumstances, management continues to implement plans to increase cash flows from subscriptions, manage costs and defer payments of certain financial liabilities with suppliers. These undertakings, while significant, are not sufficient in and of themselves to enable the Company to fund all aspects of its operations and, accordingly, management is pursuing other alternatives to fund its operations. Based on management's forecast as at August 14, 2013, the available cash resources to carry on the Company's operations could be depleted by the week ending September 20, 2013. If the Company is unable to obtain additional funding, the Company will have to consider restructuring alternatives available to it. There is no assurance that any of these initiatives will be successful.

The Company's ability to continue as a going concern is dependent upon its ability to obtain the additional funding required to meet the Company's cash flow needs. These financial statements do not reflect any adjustments to the carrying values of assets and liabilities and the reported expenses and balance sheet classifications that would be necessary if the Company were not able to continue its operations for the foreseeable future and realize its assets and discharge its liabilities in the normal course of operations. Such adjustments could be material.

**Data and Audio-Visual Enterprises
Holdings Inc.**

Unaudited Interim Consolidated Financial Statements
For the three months ended March 31, 2013 and 2012

Data and Audio-Visual Enterprises Holdings Inc.**Unaudited Consolidated Statements of Financial Position**

	As at March 31, 2013 \$ (unaudited)	As at December 31, 2012 \$ (audited)
Assets		
Current assets		
Cash	14,781,723	22,615,749
Accounts receivable	5,721,836	4,670,438
Prepaid expenses	5,308,929	5,845,107
Inventory	466,395	373,313
Total current assets	26,278,883	33,504,607
Non-current assets		
Property and equipment	101,983,523	106,807,431
Intangible assets	247,076,110	247,149,972
Total non-current assets	349,059,633	353,957,403
Total assets	375,338,516	387,462,010
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	30,188,428	46,528,919
Deferred revenue	7,694,429	7,357,525
Loan payable	28,383,957	-
Total current liabilities	66,266,814	53,886,444
Non-current liabilities		
Long-term debt	373,365,576	364,128,682
Total liabilities	439,632,390	418,015,126
Equity		
Ordinary shares	252,000,010	252,000,010
Other reserves	77,459,289	77,296,290
Deficit	(393,753,173)	(359,849,416)
Total equity	(64,293,874)	(30,553,116)
Total liabilities and equity	375,338,516	387,462,010

Data and Audio-Visual Enterprises Holdings Inc.

Unaudited Consolidated Statements of Comprehensive Loss

For the three months ended March 31, 2013

	Three months ended	
	March 31, 2013	March 31, 2012
	\$	\$
Revenue	19,726,752	15,544,428
Goods and services purchased	25,781,770	25,928,223
Employee related expenses	4,223,081	5,798,778
Depreciation and amortization	4,906,719	4,312,421
Operating loss	(15,184,818)	(20,494,994)
Finance income	44,078	154,820
Finance costs	(18,742,776)	(13,655,480)
Other	(20,241)	(367,471)
Loss for the period	(33,903,757)	(34,363,125)
Other comprehensive income (loss)	-	-
Total comprehensive loss for the period	(33,903,757)	(34,363,125)
Basic and fully diluted loss per share	(\$1.35)	(\$1.36)
Weighted average number of ordinary shares outstanding	25,200,001	25,200,001

Data and Audio-Visual Enterprises Holdings Inc.

Unaudited Consolidated Statements of Cash Flows

For the three months ended March 31, 2013

	Three months ended	
	March 31, 2013	March 31, 2012
	\$	\$
Cash flow from operating activities		
Loss for the period	(33,903,757)	(34,363,125)
Items not affecting cash:		
Long-term accrued interest and non-cash finance costs	13,616,332	8,053,260
Depreciation and amortization	4,906,719	4,312,421
Share-based payments	163,000	1,110,000
Change in value of derivative instruments	-	1,000,000
Increase (decrease) in inventory provisions	402,334	(37,149)
Impairment losses on property and equipment	-	26,142
Changes in non-cash working capital:		
(Increase) decrease in accounts receivable	(1,051,398)	7,082,287
(Increase) decrease in prepaid expenses	536,177	(26,980)
(Increase) decrease in inventory	(495,415)	(1,486,927)
Increase (decrease) in accounts payable and accrued liabilities	(13,304,816)	(20,184,727)
Increase (decrease) in deferred revenue	336,904	(122,784)
	(28,793,920)	(34,637,582)
Cash flow from investing activities		
Capital expenditures	(3,044,625)	(2,722,170)
Short-term investments	-	29,999,494
	(3,044,625)	27,277,324
Cash flow from financing activities		
Proceeds from issuance of debt	24,004,519	-
Repayment of debt	-	-
	24,004,519	-
Net change in cash	(7,834,026)	(7,360,258)
Cash - Beginning of period	22,615,749	38,939,467
Cash - End of period	14,781,723	31,579,209
Supplemental information		
Interest paid	9,489,586	9,262,500
Income taxes paid	-	-

**Data and Audio-Visual Enterprises
Holdings Inc.**

Audited Condensed Consolidated Financial Statements
**For the three and twelve months ended December 31, 2012
and 2011**

Data and Audio-Visual Enterprises Holdings Inc.

Audited Consolidated Statements of Financial Position

(in Canadian dollars)

	As at December 31, 2012 \$	As at December 31, 2011 \$
Assets		
Current assets		
Cash	22,615,749	38,939,467
Short-term investments	-	29,999,494
Accounts receivable	4,670,438	12,807,618
Prepaid expenses	5,845,107	3,973,284
Inventory	373,313	925,955
Total current assets	33,504,607	86,645,818
Non-current assets		
Property and equipment	106,807,431	106,876,407
Intangible assets	247,149,972	247,240,329
Derivative assets	-	3,459,035
Total non-current assets	353,957,403	357,575,771
Total assets	387,462,010	444,221,589
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	46,528,919	41,457,072
Deferred revenue	7,357,525	7,276,775
Total current liabilities	53,886,444	48,733,847
Non-current liabilities		
Long-term debt	364,128,682	350,025,959
Derivative liabilities and other liabilities	-	3,799,035
Total liabilities	418,015,126	402,558,841
Equity		
Ordinary shares	252,000,010	252,000,010
Other reserves	77,296,290	44,351,472
Deficit	(359,849,416)	(254,688,734)
Total equity	(30,553,116)	41,662,748
Total liabilities and equity	387,462,010	444,221,589

Data and Audio-Visual Enterprises Holdings Inc.

Audited Consolidated Statements of Comprehensive Loss

For the three and twelve months ended December 31, 2012 and 2011

	Three months ended		Twelve months ended	
	December 31, 2012	December 31, 2011	December 31, 2012	December 31, 2011
	\$	\$	\$	\$
Revenue	19,871,267	15,506,281	70,199,900	51,664,950
Goods and services purchased	31,887,823	33,915,549	107,288,290	104,043,259
Employee related expenses	2,975,503	5,754,838	18,839,377	22,204,023
Depreciation and amortization	4,825,108	4,319,194	18,385,433	15,362,715
Operating loss	(19,817,167)	(28,483,299)	(74,313,200)	(89,945,047)
Finance income	64,523	282,198	339,261	998,848
Finance costs	6,698,093	(10,442,747)	(30,785,697)	(44,378,547)
Other	24,928	279,270	(401,046)	(160,782)
Loss for the period	(13,029,623)	(38,364,578)	(105,160,682)	(133,485,528)
Other comprehensive income (loss)	-	-	-	-
Total comprehensive loss for the period	(13,029,623)	(38,364,578)	(105,160,682)	(133,485,528)
Basic and fully diluted loss per share	(\$0.52)	(\$1.52)	(\$4.17)	(\$5.30)
Weighted average number of ordinary shares outstanding	25,200,001	25,200,001	25,200,001	25,200,001

Data and Audio-Visual Enterprises Holdings Inc.

Audited Consolidated Statements of Cash Flows

For the three and twelve months ended December 31, 2012 and 2011

	Three months ended		Twelve months ended	
	December 31, 2012	December 31, 2011	December 31, 2012	December 31, 2011
	\$	\$	\$	\$
Cash flow from operating activities				
Loss for the year	(13,029,623)	(38,364,578)	(105,160,682)	(133,485,528)
Items not affecting cash:				
Long-term accrued interest and non-cash finance costs	(12,346,142)	3,906,121	10,604,541	27,952,037
Depreciation and amortization	4,825,108	4,319,194	18,385,433	15,362,715
Change in the value of derivative instruments	2,160,000	-	1,660,000	(1,660,000)
Increase (decrease) in inventory provisions	7,073	164,961	(338,139)	164,961
Share-based payments	(533,000)	375,313	1,443,000	1,344,897
Impairment losses on property and equipment	(97,866)	781,232	4,932	781,232
Issuance of warrants	(1,168,500)	1,143,800	-	2,287,600
Changes in non-cash working capital:				
(Increase) decrease in accounts receivable	(654,442)	(6,755,769)	8,137,180	3,306,232
(Increase) decrease in prepaid expenses	(809,461)	(1,441,695)	(1,871,823)	(1,077,424)
(Increase) decrease in inventory	286,997	(52,596)	890,781	(402,949)
Increase (decrease) in accounts payable and accrued liabilities	11,756,429	17,400,315	(5,593,285)	15,867,364
Increase (decrease) in deferred revenue	(8,570)	441,374	80,750	3,993,919
	(9,611,997)	(18,082,328)	(71,757,312)	(65,564,944)
Cash flow from investing activities				
Capital expenditures	(2,017,247)	(10,063,514)	(9,565,900)	(38,346,635)
Short-term investments	-	-	29,999,494	(29,999,494)
	(2,017,247)	(10,063,514)	20,433,594	(68,346,129)
Cash flow from financing activities				
Proceeds from issuance of long-term debt	15,000,000	-	35,000,000	230,236,122
Repayment of long-term debt	-	-	-	(74,157,697)
	15,000,000	-	35,000,000	156,078,425
Net change in cash and cash equivalents	3,370,756	(28,145,842)	(16,323,718)	22,167,352
Cash and cash equivalents - Beginning of period	19,244,993	67,085,309	38,939,467	16,772,115
Cash and cash equivalents - End of period	22,615,749	38,939,467	22,615,749	38,939,467
Supplemental information				
Interest paid	-	-	18,525,000	9,821,075
Income taxes paid	-	-	-	-

**Data and Audio-Visual Enterprises
Holdings Inc.**

Unaudited Condensed Interim Consolidated Financial
Statements

For the three and nine months ended September 30, 2012
and 2011

Data and Audio-Visual Enterprises Holdings Inc.

Unaudited Consolidated Statements of Financial Position

	As at September 30, 2012 \$ (unaudited)	As at December 31, 2011 \$ (audited)
Assets		
Current assets		
Cash	19,244,993	38,939,467
Short-term investments	-	29,999,494
Accounts receivable	4,015,996	12,807,618
Prepaid expenses	5,035,647	3,973,284
Inventory	667,382	925,955
Total current assets	28,964,018	86,645,818
Non-current assets		
Property and equipment	106,318,971	106,876,407
Intangible assets	247,190,109	247,240,329
Other assets	3,309,035	3,459,035
Total non-current assets	356,818,115	357,575,771
Total assets	385,782,133	444,221,589
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities	31,614,171	41,457,072
Deferred revenue	7,366,096	7,276,775
Total current liabilities	38,980,267	48,733,847
Non-current liabilities		
Long-term debt	380,876,642	350,025,959
Other liabilities	1,149,035	3,799,035
Total liabilities	421,005,944	402,558,841
Equity		
Ordinary shares	252,000,010	252,000,010
Other reserves	59,595,972	44,351,472
Deficit	(346,819,793)	(254,688,734)
Total equity	(35,223,811)	41,662,748
Total liabilities and equity	385,782,133	444,221,589

Data and Audio-Visual Enterprises Holdings Inc.

Unaudited Consolidated Statements of Comprehensive Loss

For the three and nine months ended September 30, 2012

	Three months ended		Nine months ended	
	September 30, 2012	September 30, 2011	September 30, 2012	September 30, 2011
	\$	\$	\$	\$
Revenue	18,371,864	14,311,698	50,328,633	36,158,669
Goods and services purchased	26,067,341	26,482,793	75,400,467	70,127,710
Employee related expenses	4,943,141	4,694,442	15,863,873	16,449,185
Depreciation and amortization	4,683,406	4,069,995	13,560,325	11,043,521
Operating loss	(17,322,024)	(20,935,532)	(54,496,032)	(61,461,747)
Finance income	49,210	239,249	274,738	716,649
Finance costs	(13,312,693)	(10,645,852)	(37,483,790)	(33,935,800)
Other	(103,884)	(370,133)	(425,975)	(440,052)
Loss for the period	(30,689,391)	(31,712,268)	(92,131,059)	(95,120,950)
Other comprehensive income (loss)	-	-	-	-
Total comprehensive loss for the period	(30,689,391)	(31,712,268)	(92,131,059)	(95,120,950)
Basic and fully diluted loss per share	(\$1.22)	(\$1.26)	(\$3.66)	(\$3.77)
Weighted average number of ordinary shares outstanding	25,200,001	25,200,001	25,200,001	25,200,001

Data and Audio-Visual Enterprises Holdings Inc.

Unaudited Consolidated Statements of Cash Flows

For the three and nine months ended September 30, 2012

	Three months ended		Nine months ended	
	September 30, 2012	September 30, 2011	September 30, 2012	September 30, 2011
	\$	\$	\$	\$
Cash flow from operating activities				
Loss for the period	(30,689,391)	(31,712,268)	(92,131,059)	(95,120,950)
Items not affecting cash:				
Long-term accrued interest and non-cash finance costs	8,656,353	8,095,728	22,950,683	24,045,916
Depreciation and amortization	4,683,406	4,069,995	13,560,325	11,043,521
Share-based payments	450,000	489,584	1,976,000	969,584
Issuance of warrants	-	-	1,168,500	1,143,800
Change in value of derivative instruments	-	(1,660,000)	(500,000)	(1,660,000)
Increase (decrease) in inventory provisions	(74,715)	115,531	(345,212)	222,748
Impairment losses on property and equipment	101,312	-	102,798	-
Changes in non-cash working capital:				
Decrease in accounts receivable	1,430,826	(2,270,507)	8,791,622	10,062,001
(Increase) decrease in prepaid expenses	(995,818)	(187,278)	(1,062,362)	364,271
(Increase) decrease in inventory	1,188,415	924,832	603,784	(573,101)
Increase (decrease) in accounts payable and accrued liabilities	(7,150,807)	(526,201)	(15,559,615)	(1,532,951)
Increase (decrease) in deferred revenue	(187,666)	911,750	89,320	3,552,545
	(22,588,085)	(21,748,834)	(60,355,216)	(47,482,616)
Cash flow from investing activities				
Capital expenditures	(2,494,188)	(2,992,035)	(7,338,752)	(28,283,121)
Short-term investments	-	-	29,999,494	(29,999,494)
	(2,494,188)	(2,992,035)	22,660,742	(58,282,615)
Cash flow from financing activities				
Proceeds from issuance of long-term debt	20,000,000	-	20,000,000	230,236,122
Repayment of long-term debt	-	-	-	(74,157,697)
Decrease in long-term liabilities	-	-	(2,000,000)	-
	20,000,000	-	18,000,000	156,078,425
Net change in cash	(5,082,273)	(24,740,869)	(19,694,474)	50,313,194
Cash - Beginning of period	24,327,266	91,826,178	38,939,467	16,772,115
Cash - End of period	19,244,993	67,085,309	19,244,993	67,085,309
Supplemental information				
Interest paid	9,262,500	7,816,027	18,525,000	9,821,075
Income taxes paid	-	-	-	-

**Data and Audio-Visual Enterprises
Holdings Inc.**

Consolidated Financial Statements
December 31, 2012



March 26, 2013

Independent Auditor's Report

**To the Board of Directors of
Data & Audio-Visual Enterprises Holdings Inc.**

We have audited the accompanying consolidated financial statements of Data & Audio-Visual Enterprises Holdings Inc. and its subsidiaries, which comprise the consolidated statement of financial position as at December 31, 2012 and the consolidated statements of comprehensive loss, changes in equity and cash flows for the year ended December 31, 2012, and the related notes, which comprise a summary of significant accounting policies and other explanatory information.

Management's responsibility for the consolidated financial statements

Management is responsible for the preparation and fair presentation of these consolidated financial statements in accordance with International Financial Reporting Standards, and for such internal control as management determines is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's responsibility

Our responsibility is to express an opinion on these consolidated financial statements based on our audit. We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the consolidated financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the consolidated financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the consolidated financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

PricewaterhouseCoopers LLP
PwC Tower, 18 York Street, Suite 2600, Toronto, Ontario, Canada M5J 0B2
T: +1 416 863 1133, F: +1 416 365 8215, www.pwc.com/ca

"PwC" refers to PricewaterhouseCoopers LLP, an Ontario limited liability partnership.

**Opinion**

In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of Data & Audio-Visual Enterprises Holdings Inc. and its subsidiaries as at December 31, 2012 and their financial performance and their cash flows for the year then ended in accordance with International Financial Reporting Standards.

Emphasis of matter

Without qualifying our opinion, we draw attention to note 1 in the consolidated financial statements which describes matters and conditions that indicate the existence of a material uncertainty that may cast significant doubt about the corporation's ability to continue as a going concern.

PricewaterhouseCoopers LLP

Chartered Accountants, Licensed Public Accountants

Data and Audio-Visual Enterprises Holdings Inc.**Consolidated Statements of Financial Position***(in Canadian dollars)*

	As at December 31, 2012 \$	As at December 31, 2011 \$
Assets		
Current assets		
Cash	22,615,749	38,939,467
Short-term investments	-	29,999,494
Accounts receivable (note 7)	4,670,438	12,807,618
Prepaid expenses (note 8)	5,845,107	3,973,284
Inventory (note 9)	373,313	925,955
Total current assets	<u>33,504,607</u>	<u>86,645,818</u>
Non-current assets		
Property and equipment (note 10)	106,807,431	106,876,407
Intangible assets (note 11)	247,149,972	247,240,329
Derivative assets (notes 6, 13)	-	3,459,035
Total non-current assets	<u>353,957,403</u>	<u>357,575,771</u>
Total assets	<u>387,462,010</u>	<u>444,221,589</u>
Liabilities		
Current liabilities		
Accounts payable and accrued liabilities (note 12)	46,528,919	41,457,072
Deferred revenue	7,357,525	7,276,775
Total current liabilities	<u>53,886,444</u>	<u>48,733,847</u>
Non-current liabilities		
Long-term debt (note 13)	364,128,682	350,025,959
Derivative liabilities and other liabilities (notes 6, 13)	-	3,799,035
Total liabilities	<u>418,015,126</u>	<u>402,558,841</u>
Equity		
Ordinary shares (note 15)	252,000,010	252,000,010
Other reserves (note 15)	77,296,290	44,351,472
Deficit	(359,849,416)	(254,688,734)
Total equity	<u>(30,553,116)</u>	<u>41,662,748</u>
Total liabilities and equity	<u>387,462,010</u>	<u>444,221,589</u>

Going concern (note 1), Commitments (note 16), Contingencies (note 17), Subsequent events (note 22)

Approved by the Board of Directors_____
Director_____
Director

The accompanying notes are an integral part of these consolidated financial statements.

Data and Audio-Visual Enterprises Holdings Inc.**Consolidated Statements of Comprehensive Loss****For the year ended December 31, 2012**

	2012	2011
	\$	\$
Revenue	70,199,900	51,664,950
Goods and services purchased	107,288,290	104,043,259
Employee related expenses (notes 18, 21)	18,839,377	22,204,023
Depreciation and amortization (notes 10, 11)	18,385,433	15,362,715
Operating loss	(74,313,200)	(89,945,047)
Finance income	339,261	998,848
Finance costs (note 13)	(30,785,697)	(44,378,547)
Other	(401,046)	(160,782)
Loss for the year	(105,160,682)	(133,485,528)
Other comprehensive income (loss)	-	-
Total comprehensive loss for the year	(105,160,682)	(133,485,528)
Basic and fully diluted loss per share (note 19)	(\$4.17)	(\$5.30)
Weighted average number of ordinary shares outstanding	25,200,001	25,200,001

The accompanying notes are an integral part of these consolidated financial statements.

Data and Audio-Visual Enterprises Holdings Inc.

Consolidated Statements of Changes in Equity

	Ordinary Shares						
	Number of shares	Common shares \$	Class B shares \$	Warrants \$	Other Reserves \$	Retained losses \$	Total equity \$
Balance as at January 1, 2011	25,200,001	49,952,110	202,047,900	12,000,000	22,201,821	(121,203,206)	164,998,625
Issuance of convertible debentures – equity component (note 15)	-	-	-	-	3,300,000	-	3,300,000
Issuance of debentures - equity component (note 15)	-	-	-	3,400,000	(182,846)	-	3,217,154
Issuance of warrants (note 15)	-	-	-	2,287,600	-	-	2,287,600
Share-based payments (note 18)	-	-	-	-	1,344,897	-	1,344,897
Loss for the year	-	-	-	-	-	(133,485,528)	(133,485,528)
Balance as at December 31, 2011	<u>25,200,001</u>	<u>49,952,110</u>	<u>202,047,900</u>	<u>17,687,600</u>	<u>26,663,872</u>	<u>(254,688,734)</u>	<u>41,662,748</u>
Issuance of convertible debentures – equity component (note 15)	-	-	-	-	31,501,818	-	31,501,818
Issuance of warrants (note 15)	-	-	-	-	-	-	-
Share-based payments (note 18)	-	-	-	-	1,443,000	-	1,443,000
Loss for the year	-	-	-	-	-	(105,160,682)	(105,160,682)
Balance as at December 31, 2012	<u>25,200,001</u>	<u>49,952,110</u>	<u>202,047,900</u>	<u>17,687,600</u>	<u>59,608,690</u>	<u>(359,849,416)</u>	<u>(30,553,116)</u>

The accompanying notes are an integral part of these consolidated financial statements.

Data and Audio-Visual Enterprises Holdings Inc.**Consolidated Statements of Cash Flows****For the year ended December 31, 2012**

	2012 \$	2011 \$
Cash flow from operating activities		
Loss for the year	(105,160,682)	(133,485,528)
Items not affecting cash:		
Long-term accrued interest and non-cash finance costs	10,604,541	27,952,037
Depreciation and amortization	18,385,433	15,362,715
Change in the value of derivative instruments	1,660,000	(1,660,000)
Increase (decrease) in inventory provisions	(338,139)	164,961
Share-based payments (note 18)	1,443,000	1,344,897
Impairment losses on property and equipment	4,932	781,232
Issuance of warrants	-	2,287,600
Changes in non-cash working capital:		
(Increase) decrease in accounts receivable	8,137,180	3,306,232
(Increase) decrease in prepaid expenses	(1,871,823)	(1,077,424)
(Increase) decrease in inventory	890,781	(402,949)
Increase (decrease) in accounts payable and accrued liabilities	(5,593,285)	15,867,364
Increase (decrease) in deferred revenue	80,750	3,993,919
	<u>(71,757,312)</u>	<u>(65,564,944)</u>
Cash flow from investing activities		
Capital expenditures (notes 10, 11)	(9,565,900)	(38,346,635)
Short-term investments	29,999,494	(29,999,494)
	<u>20,433,594</u>	<u>(68,346,129)</u>
Cash flow from financing activities		
Proceeds from issuance of long-term debt (note 13)	35,000,000	230,236,122
Repayment of long-term debt (note 13)	-	(74,157,697)
	<u>35,000,000</u>	<u>156,078,425</u>
Net change in cash and cash equivalents	<u>(16,323,718)</u>	<u>22,167,352</u>
Cash and cash equivalents - Beginning of period	<u>38,939,467</u>	<u>16,772,115</u>
Cash and cash equivalents - End of period	<u>22,615,749</u>	<u>38,939,467</u>
Supplemental information		
Interest paid	18,525,000	9,821,075
Income taxes paid	-	-

The accompanying notes are an integral part of these consolidated financial statements.

Data and Audio-Visual Enterprises Holdings Inc.

Notes to Consolidated Financial Statements

December 31, 2012

1 General information and going concern

Data and Audio-Visual Enterprises Holdings Inc. (the Company or DAVE) was incorporated under the provisions of the Business Corporations Act (Ontario) on March 5, 2008 for the purpose of establishing and operating a Canadian wireless voice and data communications service. The Company is controlled by Data and Audio-Visual Enterprises Investments Inc. The Company commenced its principal operations in May 2010. All of its operations and sales are in Canada. The Company's registered office is located at 101 Exchange Avenue, Vaughan, Ontario, L4K 5R6.

These consolidated financial statements have been prepared in accordance with International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB) applicable to a going concern, which assumes the Company will continue in operation for the foreseeable future and will be able to realize its assets and discharge its liabilities in the normal course of operations.

For the year ended December 31, 2012 the Company reported a loss of \$105,160,682 and a deficit of \$359,849,416 at that date. In addition to its ongoing working capital requirements and other commitments, the Company currently projects that it will continue to experience significant losses and negative cash flows for the foreseeable future as it continues its network expansion and growth of its wireless operations and subscriber base. These circumstances lend significant doubt as to the ability of the Company to meet its obligations as they come due and, accordingly, the ultimate appropriateness of the use of the going concern assumption.

In recognition of these circumstances, the Company secured a Note Purchase Agreement for gross proceeds of \$35,000,000 on February 6, 2013 available in three draws in the amounts of \$15,000,000, \$10,000,000 and \$10,000,000, with each draw becoming available upon satisfaction of certain conditions precedent. The first \$15,000,000 of funding was received on February 6, 2013. The outcome of certain actions taken by an existing debt holder against the Company on February 25, 2013 is not determinable as to whether those actions will impact the availability of these amounts (see Note 22 Subsequent events). Management also continues to implement plans to increase cash flows from subscriptions, manage costs and defer payments of certain financial liabilities with suppliers. These undertakings, while significant, are not sufficient in and of themselves to enable the Company to fund all aspects of its operations and, accordingly, management is pursuing other alternatives. There is no assurance that any of these initiatives will be successful.

The Company's ability to continue as a going concern is dependent upon its ability to obtain the additional funding required to meet the Company's cash flow needs. These financial statements do not reflect any adjustments to the carrying values of assets and liabilities and the reported expenses and balance sheet classifications that would be necessary if the Company were not able to continue its operations for the foreseeable future and realize its assets and discharge its liabilities in the normal course of operations. Such adjustments could be material.

Data and Audio-Visual Enterprises Holdings Inc.

Notes to Consolidated Financial Statements

December 31, 2012

2 Summary of significant accounting policies

These consolidated financial statements were approved by the Board of Directors for issue on March 26, 2013. The principal accounting policies applied in the preparation of these consolidated financial statements are set out below. These policies have been consistently applied to all the periods presented, unless otherwise stated.

Consolidation

The consolidated financial statements include the accounts of DAVE and its wholly owned subsidiaries, Data and Audio-Visual Enterprises Wireless Inc. and Data and Audio Visual Enterprises Leasing Inc. (collectively the group). All intercompany transactions and balances have been eliminated.

Subsidiaries are all entities over which the Company has the power to govern the financial and operating policies generally accompanying a shareholding of more than one half of the voting rights. Subsidiaries are fully consolidated from the date on which control is obtained by the Company and are deconsolidated from the date that control ceases.

Foreign currency translation

The consolidated financial statements are presented in Canadian dollars, which is the Company's functional currency.

Monetary assets and liabilities arising as a result of foreign currency transactions are translated at rates of exchange prevailing at the consolidated balance sheet dates. Revenue and expense items are translated throughout the period at rates of exchange prevailing at the dates of transactions. Foreign currency exchange gains and losses are included in loss for the period.

Cash

Cash include cash in hand and deposits held at call with banks.

Short-term investments

Short-term investments include term deposits with original maturities of greater than three months but less than one year.

Accounts receivable

Accounts receivable are amounts due from customers for merchandise sold or services performed in the ordinary course of business.

Accounts receivable are recognized initially at fair value and subsequently measured at amortized cost using the effective interest method, less provision for impairment.

Data and Audio-Visual Enterprises Holdings Inc.

Notes to Consolidated Financial Statements

December 31, 2012

Inventory

Inventory is stated at the lower of cost and net realizable value. Cost is determined on the basis of weighted average cost. Net realizable value is the estimated selling price less applicable selling expenses.

Impairment

Tangible and intangible assets are measured using the cost basis and are written down to the recoverable amount when their carrying value exceeds recoverable amount.

Assets with an indefinite useful life are not subject to amortization and are tested on an annual basis for impairment, or where an indication of impairment exists. Assets that are subject to amortization are reviewed for impairment wherever events or changes in circumstances indicate that carrying value may not be recoverable.

The recoverable amount of an asset is the greater of its fair value less costs to sell or its value in use. Value in use represents the present value of the future amount expected to be recovered through the cash inflows and outflows arising from the asset's continued use and subsequent disposal. The Company recognizes any reduction in the carrying value as a charge in the consolidated statements of comprehensive loss in the reporting period in which the impairment loss occurs.

In determining value in use, the Company applies management's judgment in establishing forecasts of future operating performance, as well as the selection of growth rates, terminal rates and discount rates. When developing these key judgments and assumptions, the Company considered economic and operational conditions that could impact the value in use of the Company.

The expected cash inflows included in determining recoverable amounts of the Company's assets are discounted to present values using a market-determined, risk adjusted discount rate. When determining an appropriate discount rate, the Company uses a market participant pre-tax discount as an initial point of reference, adjusted for specific risks associated with each different category of assets assessed.

For assets that do not generate largely independent cash inflows, the recoverable amount is determined for the cash generating unit (CGU) to which that asset belongs. The Company's CGUs are determined according to the lowest level of aggregation of assets involved in generating largely independent cash inflows.

The Company applies management's judgment to establish its CGUs. The Company has determined that assets, which form part of its ubiquitous telecommunications network, work together to generate cash inflows. No one item of telecommunications equipment is of any value without the other assets to which it is connected in order to achieve the delivery of products and services. As a result, the Company has determined that the ubiquitous telecommunications network is a single CGU (DAVE Entity CGU).

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Property and equipment

The cost of property and equipment corresponds to their purchase or production cost, including costs directly attributable to bringing the asset to the location and the condition necessary for it to be capable of operating in the manner intended by management.

The cost of networks includes design and construction costs, as well as capacity improvement costs.

The total cost of an asset is allocated among its different components. Each component is accounted for separately when the components have different useful lives or when the pattern in which their future economic benefits are expected to be consumed by the entity varies.

Subsequent costs are included in the asset's carrying value or recognized as a separate asset only when it is probable that future economic benefits associated with the asset will flow to the Company and the costs of the asset can be reliably measured. All other expenditures are charged to operating expenses as incurred.

Borrowing costs are recognized as an expense in the period in which they are incurred, except to the extent that they are directly attributable to the acquisition or construction of assets that necessarily take a substantial period to prepare for their intended use or sale.

Depreciation

Property and equipment are depreciated to expense their cost, less any residual value, on a basis that reflects the pattern in which their future economic benefits are expected to be consumed. Therefore, the straight-line basis is applied over the following estimated useful lives:

Furnishings and equipment	3 to 5 years
Computer hardware	3 to 5 years
Network assets	8 to 10 years

Construction-in-progress is depreciated from the date the asset is ready for productive use.

The useful lives and residual values are reviewed annually and are adjusted if current estimated useful lives or residual values are different from previous estimates. The changes in accounting estimates are recognized prospectively.

Intangible assets - definite life

Acquired computer software is capitalized on the basis of the costs incurred to acquire and bring to use the specific software. These costs are amortized over their estimated useful lives of three to five years.

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Leases

Leases, in which a significant portion of the risk and rewards of ownership is retained by the lessor, are classified as operating leases. Operating leases are not recognized in the consolidated balance sheets and payments made under the operating leases (net of any incentives received from the lessor) are expensed.

Accounts payable

Accounts payable are obligations to pay for goods or services that have been acquired in the ordinary course of business from suppliers. Accounts payable are classified as current liabilities if payment is due within one year or less. If not, they are presented as non-current liabilities. Accounts payable are recognized initially at fair value and subsequently measured at amortized cost using the effective interest method.

Long-term debt

Long-term debt is recognized initially at fair value, net of transaction costs incurred. Long-term debt is subsequently carried at amortized cost. Any difference between the proceeds (net of transaction costs) and the redemption value is recognized in the consolidated statements of comprehensive loss over the period of the long-term debt using the effective interest method.

Fees paid on the establishment of loan facilities are recognized as transaction costs of the loan. To the extent there is no evidence that it is probable that some or all of the facility will be drawn down, the fee is capitalized as a prepayment for liquidity services and amortized over the period of the facility to which it relates.

Compound financial instruments

Compound financial instruments issued by the group comprise convertible notes that can be converted to share capital at the option of the holder, and the number of shares to be issued does not vary with changes in their fair value.

The liability component of a compound financial instrument is recognized initially at the fair value of a similar liability that does not have an equity conversion option. The equity component is recognized initially at the difference between the fair value of the compound financial instrument as a whole and the fair value of the liability component. Any directly attributable transaction costs are allocated to the liability and equity components in proportion to their initial carrying values.

Subsequent to initial recognition, the liability component of a compound financial instrument is measured at amortized cost using the effective interest method. The equity component of a compound financial instrument is not re-measured subsequent to initial recognition, except on conversion or expiry.

Some of the Company's compound financial instruments contain embedded derivatives. These derivatives are initially recognized at fair value and are subsequently re-measured at their fair value. The resulting gain or loss is recognized in finance costs.

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Share capital

Ordinary shares are comprised of common shares (voting) and Class B shares (non-voting) and are classified as equity. Incremental costs directly attributable to the issue of new shares or options are shown in equity as a deduction, net of taxes, from the proceeds.

Share-based payments

The share option plan allows Company employees to acquire shares of the Company. The fair value of share options granted is recognized as share-based compensation with a credit to other reserves.

The fair value of the share options granted is measured using the Black-Scholes option pricing model, taking into account the terms and conditions on which the share options were granted. Non-market vesting conditions are included in assumptions about the number of share options that are expected to vest. The total expense is recognized over the vesting period, which is the period over which all of the specified vesting conditions are to be satisfied. The Company uses the graded vesting method of accounting for the share-based compensation charge. At the end of each reporting period, the Company revises its estimates of the number of share options that are expected to vest based on the non-market vesting conditions.

Revenue

Revenue is recognized to the extent the Company has delivered goods or rendered services under an agreement, the amount of revenue can be measured reliably and it is probable that the economic benefits associated with the transaction will flow to the Company. Revenue is measured at the fair value of the consideration received, exclusive of sales taxes and discounts.

The Company principally obtains revenue from providing the following telecommunication services; airtime usage, messaging, roaming fees, data services and other value added services. Products and services may be sold separately or in bundled packages. Services are either sold through the Company's retail locations, the Company's call centre, or the Company's third party dealer network.

The Company's wireless services are provided on a month-to-month basis and are paid in advance. Revenues from wireless services are recognized as services are rendered. Amounts received in advance are recorded as deferred revenue.

Equipment revenues arise from the sale of handsets and accessories. Revenues and related costs from the sale of handsets and accessories in the Company's retail locations are recognized at the time of sale. The Company does not recognize any revenues from the sale of handsets and accessories at dealer locations since this activity is managed by the dealers. The Company may, from time to time, subsidize the cost of handsets sold by dealers to align with promotions occurring at the Company's retail locations. These costs are considered subscriber acquisition costs and are expensed as incurred.

The Company offers certain products and services as part of multiple deliverable arrangements. Multiple deliverable arrangements are divided into separate units of accounting. Components of multiple deliverable arrangements are separately accounted for provided the delivered elements have stand-alone value to the

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customers and the fair value of any undelivered elements can be objectively and reliably determined. Consideration for these units is measured and allocated amongst the accounting units using the residual value method and the relevant revenue recognition policies are applied to them.

Promotional credits granted to customers are considered a separately identifiable component of the sales transactions and, as a result, are deferred until recognized as operating revenue when the credits are redeemed by the customer and the services are provided by the Company. The portion allocated to the credit is estimated based on the fair value of the right to the future services. The amount of revenue recognized is based on the number of credits redeemed relative to the total number of credits that are expected to be redeemed.

Current and deferred income taxes

The income tax expense for the period comprises current and deferred income taxes. Income taxes are recognized in the consolidated statements of comprehensive loss, except to the extent that they relate to items recognized in other comprehensive loss or directly in equity. In this case, these taxes are also recognized in other comprehensive loss or directly in equity, respectively.

The current income tax charge is calculated on the basis of the tax laws enacted or substantively enacted at the consolidated balance sheet dates in the countries where the Company's subsidiaries operate and generate taxable income. Management periodically evaluates positions taken in tax returns with respect to situations in which applicable tax regulation is subject to interpretation. It establishes provisions, where appropriate, on the basis of amounts expected to be paid to the tax authorities.

Deferred income taxes are recognized, using the liability method, on temporary differences arising between the tax bases of assets and liabilities and their carrying values in the consolidated financial statements. Deferred income taxes are determined using tax rates and laws that have been enacted or substantially enacted by the consolidated balance sheet dates and are expected to apply when the related deferred income tax asset is realized or the deferred income tax liability is settled.

Deferred income tax assets are recognized only to the extent that it is probable that future taxable profit will be available against which the temporary differences can be utilized.

Deferred income taxes are provided on temporary differences arising on investments in the subsidiaries, except where the timing of the reversal of the temporary difference is controlled by the Company and it is probable that the temporary difference will not reverse in the foreseeable future.

Deferred income tax assets and liabilities are offset when there is a legally enforceable right to offset current tax assets against current tax liabilities and when the deferred income taxes assets and liabilities relate to income taxes levied by the same taxation authority on either the taxable entity or different taxable entities where there is an intention to settle the balances on a net basis.

Investment tax credits

The Company is entitled to Canadian federal and provincial investment tax credits, which are earned as a percentage of eligible research and development expenditures in each taxation year. Investment tax credits are

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accounted for as a reduction of the related expenditure, provided that the Company has assurance that the investment tax credits will be realized.

Loss per share

Basic loss per ordinary share is calculated based on the weighted average number of ordinary shares outstanding for the year. Diluted loss per ordinary share is calculated using the weighted average number of ordinary shares outstanding for the year for basic net loss per ordinary share plus the weighted average number of potential dilutive ordinary shares that would have been outstanding during the year had all potential ordinary shares been issued at the beginning of the year or when the underlying stock options or warrants were granted, if later, unless they were anti-dilutive.

3 Recently issued accounting standards to be applied in future reporting periods

The accounting standards and interpretations that have not been early adopted as of December 31, 2012, but will be applicable to the Company in future reporting periods, are detailed below. Apart from these standards and interpretations, we have considered other accounting standards that will be applicable in future periods, however they have been considered insignificant to the Company.

IFRS 9, Financial Instruments

In October 2010, the IASB issued IFRS 9, Financial Instruments ("IFRS 9"). IFRS 9, which replaces IAS 39, Financial Instruments: Recognition and Measurement, establishes principles for the financial reporting of financial assets and financial liabilities that will present relevant and useful information to users of financial statements for their assessment of the amounts, timing and uncertainty of an entity's future cash flows. IFRS 9 also amends some of the requirements of IFRS 7, including added disclosures about investments in equity instruments measured at fair value in OCI, and guidance on financial liabilities and derecognition of financial instruments. In December 2012, the IASB issued an amendment that adjusted the mandatory effective date of IFRS 9 from January 1, 2013 to January 1, 2015. The Company is assessing the impact of this new standard on its consolidated financial statements.

IFRS 10, Consolidated Financial Statements

In May 2011, the IASB issued IFRS 10, Consolidated Financial Statements ("IFRS 10"). IFRS 10, which replaces the consolidation requirements of SIC-12 Consolidation-Special Purpose Entities and IAS 27 Consolidated and Separate Financial Statements, establishes principles for the presentation and preparation of consolidated financial statements when an entity controls one or more other entities. This new standard is effective for the Company's interim and annual consolidated financial statements commencing January 1, 2013. The Company is assessing the impact of this new standard on its consolidated financial statements.

IFRS 11, Joint Arrangements

In May 2011, the IASB issued IFRS 11, Joint Arrangements, which establishes principles for financial reporting by parties to an arrangement that is jointly controlled by two or more parties. IFRS 11 clarifies that joint control only exists when decisions about the relevant activities of an arrangement require the unanimous

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consent of the parties that control the arrangement collectively. IFRS 11 must be applied retrospectively for annual periods beginning on or after January 1, 2013, with early adoption permitted. The Company is assessing the impact of this new standard on its consolidated financial statements.

IFRS 12, Disclosure of Interests in Other Entities

In May 2011, the IASB issued IFRS 12, Disclosure of Interests in Other Entities, which integrates and enhances the disclosure requirements for entities that have an interest in a subsidiary, a joint arrangement, an associate or an unconsolidated structured entity. IFRS 12 is effective for annual periods beginning on or after January 1, 2013, with early adoption permitted. The Company is assessing the impact of this new standard on its consolidated financial statements.

IFRS 13, Fair Value Measurement

In May 2011, the IASB issued IFRS 13, Fair Value Measurement ("IFRS 13"). IFRS 13 replaces the fair value guidance contained in individual IFRSs with a single source of fair value measurement guidance. The standard completes the IASB's project to converge fair value measurement in IFRS and United States Generally Accepted Accounting Principles. This new standard is effective for the Company's interim and annual consolidated financial statements commencing January 1, 2013. The Company is assessing the impact of this new standard on its consolidated financial statements.

IAS 1, Presentation of Financial Statements

In June 2011, the IASB amended IAS 1, Presentation of Financial Statements ("IAS 1"). This amendment retains the 'one or two statement' approach to presenting the Statements of Income and Comprehensive Income at the option of the entity and only revises the way other comprehensive income is presented. This new standard is effective for the Company's interim and annual consolidated financial statements commencing January 1, 2013. The Company is assessing the impact of this new standard on its consolidated financial statements.

4 Critical accounting estimates and judgments

Estimates and judgments are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances.

The Company makes estimates and assumptions concerning the future. The resulting accounting estimates will, by definition, seldom equal the related actual results. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying values of assets and liabilities within the next financial year are addressed below.

The discussion below should also be read in conjunction with the Company's disclosure of significant accounting policies, which is provided in note 2 to the consolidated financial statements.

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Intangible assets - indefinite life

The Company acquired 10 MHz of spectrum in regions that include southern and eastern Ontario, Victoria, Vancouver, Edmonton, Calgary and Red Deer. In February 2009, Industry Canada approved the required documentation pertaining to Canadian ownership and other matters related to acquired spectrum licences. The acquired spectrum licences, with an initial term of 10 years and presumption of renewal at negligible cost, are estimated to have indefinite economic lives. This reflects the Company's expectation of the period over which the Company will continue to receive economic benefit from these spectrum licences. The economic lives are periodically reviewed, taking into consideration such factors as changes in technology and government legislation.

Impairment testing - DAVE Entity CGU

CGUs containing indefinite lived assets are tested at least annually. The Company tests whether the DAVE Entity CGU has suffered any impairment, in accordance with the accounting policy stated in note 2. This calculation requires the use of estimates.

At December 31, 2012 the recoverable amount of the DAVE Entity CGU has been determined based on a fair value less costs to sell calculation. The valuation approach involved researching evidence of fair market value of similar indefinite lived assets based on recent transactions or proposed transactions in the North American marketplace. This required the use of key judgments and assumptions that may be sensitive to change.

At December 31, 2011 the recoverable amount of the DAVE Entity CGU was determined based on a value in use calculation. Management determined the budgeted sales growth and operating expenditures based on past performance and its expectations for market development. The Company applied a discount rate of 16% and a terminal value growth rate of 7.0x EBITDA for the cash flow projection used in the impairment test. The discount rate reflected the market determined risk adjusted discount rate which was adjusted for the specific risks relating to the DAVE Entity CGU. The terminal value growth rate represented the growth rate applied to extrapolate our cash flows beyond the five year forecast period. This growth rate was based on management's expectation of the DAVE Entity CGU's long term market performance at the time and did not exceed the long-term average growth rates for the industry in which the CGU operates.

The Company's impairment testing of the DAVE Entity CGU as at December 31, 2012 and 2011 identified no impairment.

Property and equipment - useful life

Property and equipment also represent a significant proportion of the asset base of the Company. As a result, the estimates and assumptions made to determine their useful lives and related depreciation are critical to the Company's financial position and performance.

The charge in respect of periodic depreciation is derived after determining an estimate of an asset's expected useful life and the expected residual value at the end of its life. Increasing an asset's expected life or its residual value would result in a reduced depreciation charge in the consolidated statements of comprehensive loss.

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The useful lives and residual values of the Company's assets are determined by management at the time the asset is acquired and reviewed annually for appropriateness. The useful lives are based on historical experience with similar assets as well as anticipation of future events, which may impact their lives, such as changes in technology.

5 Capital Management

The Company's objectives in managing capital are to safeguard the Company's ability to continue as a going concern while maintaining sufficient liquidity to support the Company's goal of building its network infrastructure. In general, the overall capital of the Company is evaluated and determined in the context of its financial objectives and its strategic plan.

The Company defines capital that it manages as the aggregate of its shareholders' equity, which comprises issued capital, other reserves, accumulated other comprehensive loss and deficit, plus net debt, which is calculated as long-term debt less cash and short-term investments.

The Company's total capital is as follows:

	December 31, 2012	December 31, 2011
Total long-term debt (note 13)	364,128,682	350,025,959
Less: cash and short-term investments	(22,615,749)	(68,938,961)
Net debt	341,512,933	281,086,998
Total equity	(30,553,116)	41,662,748
Total capital	310,959,817	322,749,746
Net debt to net debt plus equity ratio	110%	87%

The increase in long-term debt of \$14,102,723 in 2012 is due to the issuance of \$35,000,000 of additional convertible debentures and capitalized interest on existing debt (note 13). The increased debt was primarily used to fund additional capital expenditures to improve the network infrastructure as well as other general corporate and working capital purposes.

The Company determines the appropriate level of long-term debt, convertible debentures and debentures in the context of its cash flow and overall business risks. In light of the changes in economic conditions and credit markets, the Company reviews and updates its short-term and long-term strategic plans periodically to manage the capital structure and makes adjustments to it.

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6 Financial instruments and risk management

The Company is exposed to liquidity risk, interest rate risk and credit risk.

Liquidity risk

Liquidity risk is the risk that the Company will not be able to meet its financial obligations as they come due. To manage the needs of the business, the capital structure of the Company includes long-term debt in the form of first lien senior secured notes totalling \$195,000,000, gross proceeds from the issuance of convertible debentures totalling \$95,000,000 and gross proceeds from the issuance of debentures totalling \$95,000,000 (note 13).

The Company's objective is to maintain sufficient cash and short-term investments and the availability of funding by managing its liquidity risk through regular monitoring of forecast and actual cash flows and management of its capital structure, as outlined above (note 5).

The Company's senior secured notes are due April 29, 2018, its convertible debenture matures on September 25, 2018 and its debentures are repayable on September 25, 2018. In the current economic and credit environment, it would be difficult for the Company to access this amount of borrowings if they were to mature today or in the immediate future.

The table below summarizes the Company's contractual obligations as at December 31, 2012 based on the remaining period at the balance sheet date to the contractual maturity date. The amounts disclosed in the table are the contractual undiscounted cash flows:

	2013 \$	2014 \$	2015 \$	2016 \$	2017 \$	Thereafter \$	Total \$
Accounts payable and accrued liabilities	46,528,919	-	-	-	-	-	46,528,919
Long-term debt	-	-	-	-	-	384,741,000	384,741,000
Interest obligations	60,230,923	66,034,011	72,643,091	80,209,934	88,833,500	56,876,470	424,827,929
Operating lease commitments	8,161,163	7,951,646	5,210,636	2,489,576	1,300,749	3,381,896	28,495,666
Service/support commitments	29,631,028	29,044,907	19,179,648	18,926,613	6,792,000	6,960,000	110,534,196
Capital commitments	539,539	-	-	-	-	-	539,539
Total	145,091,572	103,030,564	97,033,375	101,626,123	96,926,249	451,959,366	995,667,249

\$18.5 million of the annual interest obligations is payable in cash. The remaining interest obligations are payable in kind.

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In the event of a performance failure or default, the Company's loans may be recalled or the Company may be restricted in its actions. There are currently no financial measurement covenants associated with the Company's debt. As at December 31, 2012, the Company is in compliance with all other general covenants in its debt agreements. Should the Company not be able to access adequate credit on maturity to enable the investment required by the business, this situation could result in limitations to growth and earnings.

Interest rate risk

The Company's interest rate risk is low due to the fixed rate nature of the senior secured notes, convertible debentures and debentures.

Credit risk

The Company's financial instruments that are exposed to credit risk consist primarily of cash, money market investments and accounts receivable.

Cash and money market investments are maintained at major Canadian financial institutions that have a minimum of an "A" credit rating assigned by international credit rating agencies. As a result, the exposure to credit risk is minimal.

Approximately 60% of accounts receivable relates to GST/HST input tax credits receivable. Another 30% of accounts receivable is due from major creditworthy business partners. Sales to retail customers are settled in cash or using major credit cards. In order to manage its exposure to credit risk and assess credit quality, the Company reviews counterparty credit ratings and assesses the credit quality of the customer. Historically, the Company has not incurred any significant losses with respect to its accounts receivable.

Derivative assets and derivative liabilities and other liabilities

As at December 31, 2012, the fair value of the Company's derivative assets is nil (2011 - \$3,459,035) and the fair value of the derivative liabilities is nil (2011 - \$1,799,035). The other liabilities in 2011 relates to trade payables to a supplier which has been classified to current liabilities during 2012.

7 Accounts receivable

	December 31, 2012 \$	December 31, 2011 \$
Sales tax credit (GST/HST) receivables	2,788,836	3,551,958
Other receivables	1,881,602	8,920,487
Interest	-	335,173
	<u>4,670,438</u>	<u>12,807,618</u>

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The Company's accounts receivable are stated after allowances for bad and doubtful debts based on management's assessment of creditworthiness. Based on the assessment the allowance was nil as at December 31, 2012 (December 31, 2011 - nil).

8 Prepaid expenses

	December 31, 2012 \$	December 31, 2011 \$
Rents	3,105,564	2,569,113
Security deposits	2,342,085	459,205
Other prepaid expenses	397,458	944,966
	<u>5,845,107</u>	<u>3,973,284</u>

9 Inventory

	December 31, 2012 \$	December 31, 2011 \$
Goods held for resale	<u>373,313</u>	<u>925,955</u>

Inventory is reported net of allowances for obsolescence, an analysis of which is as follows:

	December 31, 2012 \$	December 31, 2011 \$
Balance - Beginning of year	453,830	288,869
Amounts charged to the statement of comprehensive loss	<u>(338,139)</u>	<u>164,961</u>
Balance - End of year	<u>115,691</u>	<u>453,830</u>

Goods and services purchased includes amounts related to inventory of \$2,602,848 (2011 - \$8,482,329).

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10 Property and equipment

	Construction- in-progress \$	Network assets \$	Furnishings and equipment \$	Computer hardware \$	Total \$
Balance – January 1, 2011	1,350,636	80,848,021	1,844,817	411,359	84,454,833
Additions	38,301,927	38,261,644	1,076,764	244,977	77,885,312
Reclassifications	(39,652,563)	-	-	-	(39,652,563)
Depreciation	-	(14,293,087)	(488,547)	(248,309)	(15,029,943)
Impairment	-	-	(781,232)	-	(781,232)
Balance - December 31, 2011	-	104,816,578	1,651,802	408,027	106,876,407
Balance – January 1, 2012	-	104,816,578	1,651,802	408,027	106,876,407
Additions	18,265,841	18,265,841	1,404	299,987	36,833,073
Reclassifications	(18,265,841)	-	-	-	(18,265,841)
Depreciation	-	(17,455,228)	(361,763)	(271,979)	(18,088,970)
Disposals	-	-	(547,238)	-	(547,238)
Balance - December 31, 2012	-	105,627,191	744,205	436,035	106,807,431

Network asset additions in 2012 relate mainly to improvements to the existing network infrastructure. Network asset additions in 2011 related to start-up of operations in Calgary and improvements to the existing network in other markets.

Construction-in-progress primarily comprises capitalized costs related to the Company's network infrastructure.

During 2012 the Company has capitalized interest of nil (2011 - nil) for qualifying assets. Capitalized interest is included in network assets.

As at December 31, 2012 accumulated depreciation of property and equipment amounted to \$38,402,909 (December 31, 2011 - \$21,420,838).

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11 Intangible assets

	Spectrum licences - indefinite life \$	Computer software - definite life \$	Total \$
Balance – January 1, 2011	246,906,903	596,031	247,502,934
Additions	-	70,167	70,167
Amortization	-	(332,772)	(332,772)
Balance - December 31, 2011	246,906,903	333,426	247,240,329
Balance – January 1, 2012	246,906,903	333,426	247,240,329
Additions	-	206,106	206,106
Amortization	-	(296,463)	(296,463)
Balance – December 31, 2012	246,906,903	243,069	247,149,972

In 2008, the Company participated in the advanced wireless services spectrum auction in Canada, which concluded on July 21, 2009 pursuant to which the Company acquired 10 MHz of spectrum in regions that include southern and eastern Ontario, Victoria, Vancouver, Edmonton, Calgary and Red Deer. In February 2009, Industry Canada approved the required documentation pertaining to Canadian ownership and other matters related to acquired spectrum licences. The payments made to Industry Canada for the spectrum totalled \$243,159,000. In addition, \$3,747,903 of incremental costs associated with the acquisition of the spectrum licences were capitalized, resulting in a total cost of \$246,906,903.

As at December 31, 2012 accumulated amortization of intangible assets amounted to \$590,094 (December 31, 2011 - \$455,631).

12 Accounts payable and accrued liabilities

	December 31, 2012 \$	December 31, 2011 \$
Trade payables	15,987,625	12,645,716
Sales taxes (GST/HST) payable	571,753	2,115,226
Accrued liabilities	29,849,541	26,568,746
Amounts due to related parties (note 22)	120,000	127,384
	46,528,919	41,457,072

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13 Long-term debt

	December 31, 2012 \$	December 31, 2011 \$
Non-current		
Senior secured notes	189,356,686	188,294,210
Debentures	111,211,162	104,693,784
Convertible debentures	63,560,834	57,037,965
Credit facility	-	-
	<u>364,128,682</u>	<u>350,025,959</u>

Senior secured notes

On April 29, 2011 the Company issued Senior Secured Notes (Notes) totalling \$195,000,000 that bear interest at 9.5% per annum and mature on April 29, 2018. Interest is payable semi-annually on March 31 and September 30. The Notes are secured by the assets of the Company. The Company incurred \$7,422,816 of transaction costs that were netted against the Notes.

During 2012 the Company incurred \$19,587,476 (2011 - \$12,536,096) of interest expense and paid \$18,525,000 (2011 - \$7,816,027) in interest.

The agreement governing the Notes contains an early redemption option allowing the Company, upon 30-60 days' notice, at its option, to redeem the Notes, in whole or in part, at a redemption price equal to the sum of (i) 100% of the principal amount of the Notes to be redeemed, plus (ii) accrued and unpaid interest, plus (iii) an applicable premium. The premium varies depending on when the option is exercised. Prior to April 29, 2014, 35% of the aggregate principal amount of the Notes can be redeemed at a redemption price of 109.5% of the principal amount. On or after April 29, 2014, the Notes can be redeemed, in whole or in part, at the following redemption prices (expressed as percentage of principal amounts):

<u>Year</u>	<u>Redemption Price</u>
April 29, 2014 to April 28, 2015	104.75%
April 29, 2015 to April 28, 2016	103.17%
April 29, 2016 to April 28, 2017	102.375%
April 29, 2017 and thereafter	100.00%

The redemption option has been determined to be a derivative that is required to be bifurcated from the underlying debt and accounted for as a derivative at fair value with changes in fair value recorded in earnings. As at the issuance of the Notes, as at December 31, 2011 and as at December 31, 2012, the fair value of the derivative was not significant.

Data and Audio-Visual Enterprises Holdings Inc.

Notes to Consolidated Financial Statements

December 31, 2012

Debentures

On December 17, 2009, the Company issued an aggregate principal amount of \$75,000,000 unsecured subordinated debentures and on April 29, 2011, the Company issued an additional aggregate principal amount of \$20,000,000 unsecured subordinated debentures (Debentures). The Debentures bear interest at 15% and mature on September 25, 2018. Interest is payable semi-annually on June 30 and December 31.

As part of the issuance of the Debentures, the Company issued warrants to the holders of the debentures that entitle the holder of each warrant to purchase one common share at a price of \$12 prior to September 25, 2018. A total of 1,500,000 warrants were issued in connection with the debentures issued on December 17, 2009 and 400,000 were issued in connection with the debentures issued on April 29, 2011.

The proceeds from the facility were allocated to Debentures and warrants based on the relative fair value of the Debentures and warrants. The fair value of the Debentures was determined by discounting the future contractual cash flows of the Debentures. The fair value of the warrants was determined using the Black-Scholes option pricing model.

Based on the relative fair values of the Debentures and warrants issued in December 2009, proceeds of \$63,000,000 were allocated to Debentures and \$12,000,000 was allocated to warrants. In addition, the Company incurred \$3,960,928 of transaction costs related to the issuance of the debentures issued in December 2009 and \$3,327,179 of the transaction costs was allocated to the Debentures (netted against debentures) and \$633,749 was allocated to warrants (netted against warrants).

Based on the relative fair values of the Debentures and warrants issued in April 2011, proceeds of \$16,600,000 were allocated to debentures and \$3,400,000 was allocated to warrants. In addition, the Company incurred \$1,027,722 of transaction costs related to the issuance of the debentures issued in April 2011 and \$844,876 of the transaction costs was allocated to debentures and \$182,846 was allocated to the warrants.

During 2012 the Company incurred \$8,177,378 (2011 - \$16,227,957) of interest and related costs. During 2012, \$19,099,061 (2011 - \$15,629,796) was capitalized as part of the principal debt.

The Company may redeem, in whole or in part, the Senior Unsecured Debentures without penalty or premium.

Upon the closing of a public offering, interest due will be capitalized as payment-in-kind interest and added to the principal amount outstanding on the Debentures or, alternatively, the Company may elect to make such payments in cash. If the Company does not elect to make cash payments, the holders of the Debentures may elect to receive the interest obligation due in the form of common shares valued at the greater of \$12 per share and 95% of the trailing 20-day average closing price of the common shares. In addition, after April 29, 2013, the holders of the Debentures may elect to receive interest in cash at a rate of 13.5%.

Concurrently with the closing of an initial public offering, 50% of interest capitalized and accrued to date is issuable in common shares.

The redemption right and the option to receive interest in shares have been determined to be derivatives that are required to be bifurcated from the underlying debt and accounted for as derivatives at fair value with changes in

Data and Audio-Visual Enterprises Holdings Inc.

Notes to Consolidated Financial Statements

December 31, 2012

fair value recorded in earnings. During 2012 the redemption right decreased in value by \$3,459,035 (2011 – increased in value by \$3,459,035) and the option to receive interest in shares increased by \$1,799,035 (2011 – declined by \$1,799,035), resulting in a net loss from derivatives of \$1,660,000 (2011 – net gain of \$1,660,000).

The Debentures include a restrictive covenant limiting the aggregate amount of additional indebtedness that the Company may incur that is substantially similar to the restrictive covenant of the Notes.

The Debentures require additional warrants to be issued commencing in June 2011 and upon each subsequent interest payment date where an initial public offering has not yet been completed. In 2012, 380,000 warrants (2011 – 380,000 warrants) were issued with the same terms as those previously described above, and a charge of nil (2011 - \$2,287,600) was recorded to reflect the value of the warrants.

Convertible debentures

Quadrangle Capital Partners (Quadrangle), a related party (note 21), has made available \$95,000,000 to the Company pursuant to the terms of a second amended and restated commitment agreement dated April 29, 2011.

In 2009, the Company issued to Quadrangle convertible debentures and 200,000 Class B shares for total proceeds of \$40,939,183 and on January 26, 2011 the Company issued convertible debentures for total proceeds of \$19,000,000. The Company subsequently issued additional convertible debentures on September 4, 2012 and October 16, 2012 in the amounts of \$20,000,000 and \$15,000,000 respectively for total additional proceeds of \$35,000,000 thus fully drawing down on the remaining amount made available to the Company.

Under the commitment agreement, in connection with the amounts drawn in 2012, Quadrangle is entitled to warrants for Class B shares with an exercise price of \$0.01. Other than the exercise price, the warrants have terms substantially similar to the warrants issued to the holders of the debentures. The warrants were issued when the advances were made by Quadrangle to the Company under the Quadrangle Commitment Agreement according to the following schedule: 1,250,008 warrants were issued for the first \$17.5 million of the 2012 advances (71,429 per \$1 million of advance on a pro rata basis) and an additional 3,750,005 warrants were issued for the remaining \$17.5 million (214,286 per \$1 million of advance on a pro-rata basis).

The convertible debentures have a final maturity date of September 25, 2018, are unsecured, are convertible into Class B shares at the option of the holder at \$10 per share and bear interest at a rate of 12% per annum. On each annual interest payment date, any accrued and unpaid interest on the convertible debentures is added to the outstanding principal amount.

The convertible debentures have characteristics of both debt and equity. The proceeds from the convertible debentures were allocated between the debt and the equity components based on the fair value of the debt component with the residual allocated to equity. The fair value of the debt component was determined by discounting the future contractual cash flows of the convertible debentures using an appropriate discount rate at the measurement date. As a result, \$26,000,000 of the proceeds of the convertible debentures issued in fiscal 2009 was classified as debt, \$12,939,182 was recorded as equity and \$2,000,000 was allocated to Class B shares. For the Convertible debentures issued in fiscal 2011, \$15,700,000 was classified as debt and \$3,300,000 was recorded as equity. For the convertible debentures issued in fiscal 2012, \$3,300,000 was classified as debt and \$31,700,000 was recorded as equity. The significant allocation to equity in 2012 was the result of a very

Data and Audio-Visual Enterprises Holdings Inc.

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high discount rate applied to arrive at the fair value of the related debt. The discount rate applied is consistent with the borrowing cost on the senior secured notes obtained by the Company subsequent to year-end (note 22).

During 2012 the Company incurred \$3,024,687 (2011 - \$8,374,443) as interest and related costs. During 2012, \$8,907,949 (2011 - \$5,448,867) was capitalized as part of the principal debt.

Credit facility

On October 19, 2009, the Company entered into a credit agreement for an aggregate principal amount of up to \$124,888,506 that consisted of facilities used solely to make direct payments to a specified company for purchases of network equipment and services.

In April 2011 the Company discharged the credit facility and repaid all amounts drawn in full. In addition, the company paid \$3,819,702 of accrued interest and cancellation-related fees at the time of settlement. The Company recognized a loss of \$4,548,726 in 2011 relating to the early extinguishment of the debt.

Finance costs by nature

	December 31, 2012 \$	December 31, 2011 \$
Interest	47,724,660	37,519,655
Accretion	(20,186,371)	(390,768)
Amortization of transaction costs	1,591,252	1,340,776
Change in value of derivative instruments	1,660,000	(1,660,000)
Issuance of warrants	-	2,287,600
Loss on extinguishment of credit facility	-	4,548,726
Other	(3,844)	732,558
	<u>30,785,697</u>	<u>44,378,547</u>

Data and Audio-Visual Enterprises Holdings Inc.

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14 Income taxes

As at December 31, 2012, the Company has approximately \$437,874,000 (2011 - \$298,233,000) of available non-capital losses for income tax purposes that may be used to reduce taxable income in future years. The benefits of these income tax losses, which expire in 2029 through 2032, have not been recognized in these consolidated financial statements.

The Company has not recorded a provision for income taxes. The difference between the amount computed by multiplying the net loss by the combined statutory Canadian federal and provincial income tax rate and the nil provision for income taxes is reconciled as follows:

	2012 \$	2011 \$
Net loss for the year	(105,160,682)	(133,485,528)
Combined federal and provincial income taxes at statutory rates (2012 – 26.16%; 2011 – 28.00%)	(27,510,034)	(37,375,948)
Differences in income taxes resulting from:		
Permanent differences	(4,957,087)	1,044,856
Tax losses for which no deferred income tax asset was recognized	32,467,121	36,331,092
Provision for income taxes	-	-

The components of the Company's deferred tax assets are as follows:

	2012 \$	2011 \$
Deferred income tax asset (liability):		
Non-capital losses carried forward	114,655,227	74,558,238
Property and equipment	(19,155,800)	(13,241,026)
Financing costs	(832,287)	(532,096)
	94,667,140	60,785,116
Deferred tax assets not recognized	(94,667,140)	(60,785,116)
Net deferred income tax assets	-	-

The Company has not recognized its net deferred income tax assets because the more probable than not criteria for recognition has not been met.

Data and Audio-Visual Enterprises Holdings Inc.

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15 Share capital and other reserves

- a) The Company issued 190,000 warrants on June 17, 2012. Of these, 95,000 warrants entitle the holder to purchase common shares at \$12 per share. The other 95,000 warrants entitle the holder to purchase Class B shares at \$12 per share.
- b) The Company issued 190,000 warrants on December 17, 2012. Of these, 95,000 warrants entitle the holder to purchase common shares at \$12 per share. The other 95,000 warrants entitle the holder to purchase Class B shares at \$12 per share.
- c) The total authorized number of ordinary shares (common shares and Class B shares) is unlimited (2011 - unlimited).
- d) There are 4,995,211 (2011 - 4,995,211) common shares and 20,204,790 (2011 - 20,204,790) Class B shares issued and outstanding as at December 31, 2012.

16 Commitments

Operating lease commitments

The Company has entered into non-cancellable operating leases on certain properties, network infrastructure and items of equipment. The leases have various terms, escalation clauses, purchase options and renewal rights, none which are individually significant to the Company.

The future aggregate minimum lease payments listed in the table below do not include any common costs, such as property taxes and utilities, which cannot be determined in advance.

	\$
2013	8,161,163
2014	7,951,646
2015	5,210,636
2016	2,489,576
2017	1,300,749
2018 and thereafter	3,381,896
	<u>28,495,666</u>

Service and enterprise support provider commitments

The Company has entered into various managed service and enterprise support provider agreements related to its outsourced services and its business management software. In particular, the Company has entered into an agreement for the managed development, service and support of its billing system and related system

Data and Audio-Visual Enterprises Holdings Inc.

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integrations. The agreement is for \$55 million with a duration of approximately seven years ending in 2018. The Company has also entered into an agreement for the managed build, service and maintenance of its network assets. The agreement is for \$64.8 million with a duration of approximately five years ending in 2016.

The future aggregate minimum cash payments due under the agreements are as follows:

	\$
2013	29,631,028
2014	29,044,907
2015	19,179,648
2016	18,926,613
2017	6,792,000
2018 and thereafter	<u>6,960,000</u>
	<u>110,534,196</u>

Capital commitments

Capital expenditures contracted for at the end of the reporting period but not yet incurred are as follows:

	December 31, 2012 \$	December 31, 2011 \$
Property and equipment	<u>539,539</u>	<u>1,743,765</u>

17 Contingencies

From time to time, the Company may be a defendant in lawsuits or party to other claims or potential claims that arise in the normal course of its business. The Company recognizes a provision for estimated losses when a present obligation has arisen, it is probable (more likely than not) that an outflow of resources will be required to settle the obligation, and the amount can be estimated reliably. As at December 31, 2012 the Company is not aware of any significant present obligations.

In December 2012, Telus Corporation initiated a proceeding against the Company in the B.C Supreme Court seeking an injunction against the Company to stop it from advertising, broadcasting and distributing certain advertisements that began in late November 2012 that Telus considers misleading. The initial attempt at an injunction was not successful, allowing the advertisements to continue, however the matter remains before the Court. A dollar amount to the claim has not been specified.

In August 2012, Alpina Holdings Inc. (a former Mobilicity dealer) initiated proceedings against the Company in the Ontario Superior Court of Justice seeking \$2,000,000 in damages in relation to an alleged rescission of the dealer agreement. The matter remains before the Court.

Data and Audio-Visual Enterprises Holdings Inc.

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It is not possible at this time for the Company to predict with any certainty the outcome of these claims; however, the Company believes it will be successful in these proceedings. There are no other material legal proceedings ongoing, nor is the Company or any of its properties a party to or the subject of any other material legal proceedings and no such other proceedings are known to be contemplated.

18 Share-based payments

Share option awards

The Company has a share option plan. Under the plan, share options are granted to directors and selected employees. The exercise price of the granted options ranges from \$10 to \$12 per share. The options generally vest over a five-year period starting on the first anniversary date (generally one year after the initial grant date). Some of the options granted vested immediately.

Movements in the number of share options outstanding and their related weighted average exercise prices are as follows:

	2012		2011	
	Average exercise price per share \$	Options #	Average exercise price per share \$	Options #
Balance - Beginning of period	10.29	2,100,472	10.16	2,394,972
Granted	12.00	122,922	12.00	222,900
Forfeited	10.62	(116,956)	10.44	(517,400)
Balance - End of period	10.37	2,106,438	10.29	2,100,472

None of the outstanding options were exercised in 2012 and 2011.

The fair value of each option grant is estimated on the date of grant using the Black-Scholes option pricing model. The weighted average fair value of options granted and assumptions used to determine the fair value of options granted are as follows:

	2012	2011
Fair value (per option)	\$0.00	\$5.96
Risk free interest rate	1.5	3.0
Expected lives (years)	5	8
Expected volatility	59%	40%
Expected dividend yield	Nil	Nil

The maximum contractual term of the options granted in 2012 and 2011 was 10 years.

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Restricted stock units

Restricted stock units are granted to directors and selected employees. Each restricted stock unit is equal in value to one RSU share at the time of grant. The restricted stock units are settled by the issuance of RSU shares from treasury when vesting is completed. The restricted stock units typically vest over a period of three years. Some of the restricted stock units granted vested immediately.

Movements in the number of restricted stock units outstanding and their related weighted average grant-date fair value are as follows:

	2012		2011	
	Average grant-date fair value \$	Restricted stock units #	Average grant-date fair value \$	Restricted stock units #
Balance - Beginning of period	12.00	189,766	-	-
Granted	0.00	72,839	12.00	232,433
Forfeited	10.86	(25,313)	12.00	(42,667)
Balance - End of period	8.44	237,292	12.00	189,766

Employee related expenses includes amounts related to share-based payments of \$1,443,000 (2011 - \$1,344,897).

19 Earnings per share

Basic and diluted loss per share is calculated by dividing net loss attributable to common shares and non-voting Class B shares by the total weighted average common shares and non-voting Class B shares outstanding during the period.

The following table outlines the calculation of basic and diluted loss per share:

	2012	2011
Numerator:		
Net loss for the period	(105,160,682)	(133,485,528)
Denominator:		
Weighted number of average common shares and Class B shares outstanding	25,200,001	25,200,001
Basic and diluted loss per share	(\$4.17)	(\$5.30)

Data and Audio-Visual Enterprises Holdings Inc.

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At December 31, 2012, 2,106,438 stock options (December 31, 2011 – 2,100,472), 237,292 RSUs (December 31, 2011 – 189,766), and 7,660,013 warrants (December 31, 2011 – 2,280,000) were excluded from the calculation of the diluted weighted average number of common shares and Class B shares as their effect would have been anti-dilutive.

20 Segment information

The Company is managed as one reportable segment. Segment information has been prepared on a basis consistent with the manner in which financial information is produced internally for the purposes of making operating decisions.

21 Related party transactions

- a) The Company entered into certain transactions with the following entities controlled by the Chairman of the Company:
- . 2258234 Ontario Inc.
 - . Canadian Satellite Radio Holdings Inc.
 - . CSRI Inc.
 - . Data and Audio-Visual Enterprise Investments Inc. (controlling shareholder of the Company)
 - . Obelysk Inc.
 - . PBI Enterprises
 - . PBI LP
 - . Prizm Inc.

The Company's transactions with these entities are as follows:

	2012 \$	2011 \$
Rent on sub-leased property and fees paid for services received	346,416	493,737
Reimbursement of certain expenses incurred while conducting business on the Company's behalf	341,210	410,300
	<u>687,626</u>	<u>904,037</u>
	December 31, 2012 \$	December 31, 2011 \$
Balance owing to entities controlled by the Chairman of the Company	<u>60,000</u>	<u>7,384</u>

Data and Audio-Visual Enterprises Holdings Inc.

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- b) The Company entered into transactions with the following entities controlled by a significant shareholder of the Company:

- Quadrangle Capital Partners (Quadrangle)
- QCP CW S.A.R.L. (QCP)

The Company's transactions with these entities are as follows:

	2012 \$	2011 \$
Reimbursement of certain expenses incurred while conducting business on the Company's behalf	<u>300,000</u>	<u>360,000</u>
	December 31, 2012 \$	December 31, 2011 \$
Balance owing to entities controlled by a significant shareholder of the Company	<u>60,000</u>	<u>60,000</u>

The Company issued to QCP convertible debentures totalling \$35,000,000 (note 14) in 2012 (2011 - 19,000,000).

- c) Key management compensation

Key management includes staff that is at a director level and above (executive and non-executive). The total compensation paid to key management is as follows:

	2012 \$	2011 \$
Employee compensation and benefits	3,575,765	5,244,430
Share-based payments	<u>1,443,000</u>	<u>1,344,897</u>
	<u>5,018,765</u>	<u>6,589,327</u>

22 Subsequent events

- i) On February 6, 2013 the Company entered into a Note Purchase, Guarantee and Backstop Agreement with certain lenders (the "Lenders") for additional second lien financing. This new financing will be available to the Company in two stages. The first stage consists of a \$35 million facility provided by the Lenders and the second stage will consist of a \$75 million follow-on facility that will be backstopped by the Lenders. The first stage will be available in three draws in the amounts of \$15

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million, \$10 million and \$10 million, with each draw becoming available upon satisfaction of certain conditions precedent. On February 6, 2013, the first draw of \$15 million has been completed. On completion of the first stage of financing, certain existing debt holders of the Company will have the right to subscribe as lenders under the follow-on facility. Proceeds of the follow-on facility will be used to repay the first \$35 million facility in full and provide the Company with additional capital for general corporate purposes.

- ii) On February 25, 2013, a certain debt holder of the Company, who did not participate in the Note Purchase Agreement described above, commenced a Notice of Application seeking an oppression remedy against the Company and other unrelated entities. The application seeks two primary forms of relief:
 - a) An order that the redacted portions of the February 6, 2013 Note Purchase, Guarantee and Backstop Agreement be disclosed as well as related information; and
 - b) An order setting aside the Supplemental Indenture and the New Notes issued on February 6, 2013.

The likely outcome of the application is not determinable at this time; however, at this time the Company believes it will be successful in these proceedings.

- iii) On February 6, 2013, 35,178 RSUs previously issued to the Board of Directors in 2011 and 2012 were cancelled.

Confidential Exhibit “K”

(intentionally omitted)

Confidential Exhibit “L”

(intentionally omitted)

Exhibit “M”

This is Exhibit M referred to in the
 affidavit of William Aziz
 sworn before me, this 29th
 day of September, 2013

Court File No. CV13-10081-00CL

A. Schmitt
 A COMMISSIONER FOR TAKING AFFIDAVITS
 ONTARIO
 SUPERIOR COURT OF JUSTICE
 (COMMERCIAL LIST)

THE HONOURABLE MR.

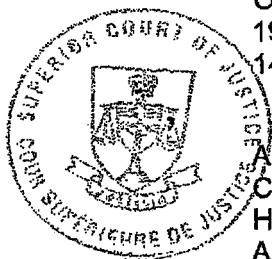
) FRIDAY, THE 26TH DAY OF

)

JUSTICE WILTON-SIEGEL

) APRIL, 2013

IN THE MATTER OF AN APPLICATION UNDER SECTION 192
 OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C.
 1985, c. C-44, AS AMENDED, AND RULES 14.05(2) AND
 14.05(3) OF THE RULES OF CIVIL PROCEDURE



AND IN THE MATTER OF A PROPOSED ARRANGEMENT OF 8440522
 CANADA INC., AND INVOLVING DATA & AUDIO-VISUAL ENTERPRISES
 HOLDINGS INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
 AND DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

INTERIM ORDER
(Acquisition Plan)

THIS MOTION made by the Applicant, 8440522 Canada Inc. (the "**Applicant**") for an interim order for advice and directions pursuant to section 192 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "**CBCA**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Notice of Application and the affidavit of William E. Aziz sworn April 24, 2013, (the "**Aziz Affidavit**"), including the Plan of Arrangement (the "**Acquisition Plan**"), which is attached as Schedule C to the draft notice of meeting and information circular (collectively, the "**Information Circular**"), which is attached as Exhibit B to the Aziz Affidavit and on hearing the submissions of counsel for the Applicant and the Initial Consenting Noteholders (as defined in the Acquisition Plan) and on being advised that the Director appointed under the CBCA (the "**Director**") does not consider it necessary to appear,

Definitions

1. **THIS COURT ORDERS** that all definitions used in this Interim Order shall have the meaning ascribed thereto in the Acquisition Plan or otherwise as specifically defined herein.

The Meeting

2. **THIS COURT ORDERS** that Data & Audio-Visual Enterprises Holdings Inc. ("**Holdings**") is permitted to call, hold and conduct a meeting (the "**Meeting**") of the registered holders of 9.5% first lien senior secured notes (the "**First Lien Notes**") of Data & Audio-Visual Enterprises Wireless Inc. ("**Wireless**"), registered holders of 15% senior unsecured debentures (the "**Unsecured Senior Notes**") of Holdings, registered holders of unsecured convertible debentures of Holdings ranking pari passu with the Unsecured Senior Notes (the "**Unsecured Pari Passu Notes**") and registered holders of unsecured convertible debentures of Holdings ranking subordinate to the Unsecured Senior Notes and the Unsecured Pari Passu Notes (the "**Unsecured Subordinated Notes**"; and together with the Unsecured Senior Notes and the Unsecured Pari Passu Notes, collectively, the "**Unsecured Notes**"; and collectively the registered holders of the Unsecured Notes and the registered holders of the First Lien Notes, the "**Voting Securityholders**") to be held at the offices of Norton Rose Canada LLP, Royal Bank Plaza, South Tower, 200 Bay Street, Suite 3800, Toronto, Ontario, M5J 2Z4 on May 21, 2013 at 10:30 a.m. to consider and, if determined advisable, pass, with or without variation, a resolution adopting and approving, with or without variation, the Acquisition Plan (collectively, the "**Arrangement Resolution**").

3. **THIS COURT ORDERS** that the Meeting shall be called, held and conducted in accordance with the CBCA, the Acquisition Plan, the Information Circular, and the articles and by-laws of the Applicant, subject to what may be provided hereafter and subject to any further order of this Court.

4. **THIS COURT ORDERS** that a member of the board of directors of Holdings, shall preside as the chair of the Meeting and, subject to this Order and any further order of the Court, shall decide all matters relating to the conduct of the Meeting.

5. **THIS COURT ORDERS** that the record date (the "**Record Date**") for determination of the Voting Securityholders entitled to notice of, and to vote at, the Meeting shall be April 25, 2013.

6. **THIS COURT ORDERS** that the only persons entitled to attend or speak at the Meeting shall be:

- a) registered holders of the First Lien Notes as at the Record Date, or their proxyholders;
- b) registered holders of the Unsecured Senior Notes as at the Record Date, or their proxyholders;
- c) registered holders of the Unsecured Pari Passu Notes as at the Record Date, or their proxyholders;
- d) registered holders of the Unsecured Subordinated Notes as at the Record Date, or their proxyholders;
- e) legal counsel and advisors of any of the foregoing;
- f) legal counsel to the Initial Consenting Noteholders;
- g) legal counsel to the Supporting First Lien Noteholders;
- h) the officers, directors, and legal counsel, of the Applicant, Holdings and Wireless;

- i) the Unsecured Senior Notes Indenture Trustee and its legal counsel;
- j) the First Lien Note Indenture Trustee and its legal counsel;
- k) the Director; and
- l) other persons who may receive the permission of the chair of the Meeting.

7. **THIS COURT ORDERS** that the Mobilicity Group may transact such other business at the Meeting as is contemplated in the Information Circular, or as may otherwise be properly before the Meeting.

Quorum

8. **THIS COURT ORDERS** that quorum at the Meeting shall be one registered holder of the First Lien Notes and two registered holders of any of the Unsecured Notes, present in person or by proxy at the opening of the Meeting who are entitled to vote at the Meeting.

Amendments to the Acquisition Plan

9. **THIS COURT ORDERS** that the Applicant is authorized to make, subject to: (i) the prior consent of the Requisite Majority of the Initial Consenting Noteholders (to the extent the amendment, restatement, modification or supplement described hereinafter may affect holders of the First Lien Notes, holders of the Unsecured Senior Notes, or the holders of the Existing Second Lien Notes); and (ii) paragraph 10 below, such amendments, restatements, modifications or supplements to the Acquisition Plan as it may determine without any additional notice to the Voting Securityholders, or others entitled to receive notice under paragraphs 13 and 14 hereof, and the Acquisition Plan, as so amended, modified, restated or supplemented shall be the Acquisition Plan to be submitted to the Voting Securityholders at the Meeting and shall be the subject of the Arrangement Resolution. Amendments, modifications, restatements or supplements may be made following the Meeting, but shall be

subject to review and, if appropriate, further direction by this Court at the hearing for the final approval of the Acquisition Plan.

10. **THIS COURT ORDERS** that, if any amendments, modifications or supplements to the Acquisition Plan as referred to in paragraph 9, above, would, if disclosed, reasonably be expected to affect a Voting Securityholder's decision to vote for or against the Arrangement Resolution, notice of such amendment, modification or supplement shall be distributed by the Applicant to the Voting Securityholders by such method as the Applicant may determine is most practicable and expedient in the circumstances.

Amendments to the Information Circular

11. **THIS COURT ORDERS** that, subject to paragraph 16 below, the Applicant is authorized to make such amendments, revisions and/or supplements to the draft Information Circular as it may determine and the Information Circular, as so amended, revised and/or supplemented, shall be the Information Circular to be distributed in accordance with paragraphs 13 and 14.

Adjournments and Postponements

12. **THIS COURT ORDERS** that the Applicant, if it deems advisable, is specifically authorized to adjourn or postpone the Meeting on one or more occasions, without the necessity of first convening the Meeting or first obtaining any vote of the Voting Securityholders respecting the adjournment or postponement, and notice of any such adjournment or postponement shall be given by the Applicant by such method as the Applicant may determine is most practicable and expedient in the circumstances. This provision shall not limit the authority of the Chair of the Meeting in respect of adjournments and postponements.

Notice of Meeting

13. **THIS COURT ORDERS** that, in order to effect notice of the Meeting, the Applicant shall send the Information Circular (including this Interim Order), the notice of the Meeting and the forms of proxy, along with such amendments or additional documents as the Applicant may determine are necessary or desirable and are not inconsistent with the terms of this Interim Order (collectively, the **"Meeting Materials"**), to the following:

- a) the Voting Securityholders at the close of business on the Record Date, at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting, by one or more of the following methods:
 - i) by pre-paid ordinary or first class mail at the addresses of the Voting Securityholders as they appear on the books and records of Holdings, or its registrar and transfer agent, at the close of business on the Record Date and if no address is shown therein, then the last address of the person known to the corporate secretary of Holdings;
 - ii) by delivery, in person or by recognized courier service or inter-office mail, to the address specified in (i) above; or
 - iii) by facsimile or electronic transmission to any Voting Securityholder, who is identified to the satisfaction of the Applicant, who requests such transmission in writing and, if required by the Applicant, who is prepared to pay the charges for such transmission;
- b) the Unsecured Senior Note Indenture Trustee (as defined in the Information Circular) at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting;

- c) the First Lien Note Indenture Trustee (as defined in the Information Circular) at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the meeting; and
- d) the respective directors and auditors of Holdings, Wireless, Leasing and the Applicant and to the Director appointed under the CBCA, by delivery in person, by recognized courier service, by pre-paid ordinary or first class mail or, with the consent of the person, by facsimile or electronic transmission, at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting.

and that compliance with this paragraph shall constitute sufficient notice of the Meeting.

14. **THIS COURT ORDERS** that the Applicant is hereby directed to distribute the Notice of Application and the Information Circular (including this Interim Order), and any other communications or documents determined by the Applicant to be necessary or desirable (collectively, the "**Court Materials**") to the registered Existing Equity Holders of Holdings by any method permitted for notice to the Voting Securityholders as set forth in paragraph 13 above, concurrently with the distribution described in paragraph 13 of this Interim Order. Distribution to such persons shall be to their addresses as they appear on the books and records of Holdings at the close of business on the Record Date.

15. **THIS COURT ORDERS** that accidental failure or omission by the Applicant to give notice of the Meeting or to distribute the Meeting Materials or Court Materials to any person entitled by this Interim Order to receive notice, or any failure or omission to give such notice as a result of events beyond the reasonable control of the Applicant, or the non-receipt of such notice shall, subject to further order of this Court, not constitute a breach of this Interim Order nor shall it invalidate any resolution passed or proceedings taken at the Meeting. If any such

failure or omission is brought to the attention of the Applicant, it shall use its best efforts to rectify it by the method and in the time most reasonably practicable in the circumstances.

16. **THIS COURT ORDERS** that the Applicant is hereby authorized to make, with the consent of the Requisite Majority of the Initial Consenting Noteholders, such amendments, revisions or supplements to the Meeting Materials and Court Materials (subject to paragraphs 9 and 10 in the case of any amendments, revisions or supplements to the Acquisition Plan), as the Applicant may determine in accordance with the terms of the Arrangement Agreement and the Acquisition Plan ("**Additional Information**"), and that notice of such Additional Information may, subject to paragraph 10, above, be distributed by press release, newspaper advertisement, pre-paid ordinary mail, or by the method most reasonably practicable and expedient in the circumstances, as determined by the Applicant.

Service

17. **THIS COURT ORDERS** that distribution of the Meeting Materials and Court Materials pursuant to paragraphs 13 and 14 of this Interim Order shall constitute notice of the Meeting and good and sufficient service of the within Application upon the persons described in paragraphs 13 and 14 and that those persons are bound by any orders made on the within Application. Further, no other form of service of the Meeting Materials or the Court Materials or any portion thereof need be made, or notice given or other material served in respect of these proceedings and/or the Meeting to such persons or to any other persons, except to the extent required by paragraph 10, above.

Solicitation and Revocation of Proxies

18. **THIS COURT ORDERS** that Holdings and the Applicant are authorized to use the proxies substantially in the form of the drafts accompanying the Information Circular, with such amendments and additional information as Holdings and the Applicant may determine are

necessary or desirable, with the consent of the Requisite Majority of the Initial Consenting Noteholders, subject to the terms of the Arrangement Agreement and the Acquisition Plan. Holdings and the Applicant are authorized, at their expense, to solicit proxies, directly or through their officers, directors or employees, and through such agents or representatives as they may retain for that purpose, and by mail or such other forms of personal or electronic communication as they may determine. Holdings or the Applicant may waive, with the consent of the Requisite Majority of the Initial Consenting Noteholders, the time limits set out in the Information Circular for the deposit or revocation of proxies by Voting Securityholders, if Holdings or the Applicant deems it advisable to do so.

19. **THIS COURT ORDERS** that Voting Securityholders shall be entitled to revoke their proxies in accordance with section 148(4) of the CBCA (except as the procedures of that section are varied by this paragraph) provided that any instruments in writing delivered pursuant to s.148(4)(a)(i) of the CBCA: (a) may be deposited at the registered office of the Applicant or with the transfer agent of the Applicant as set out in the Information Circular; and (b) any such instruments must be received by the Applicant or its transfer agent not later than 5:00 p.m. two business days immediately preceding the Meeting (or any adjournment or postponement thereof).

Voting

20. **THIS COURT ORDERS** that the only persons entitled to vote in person or by proxy on the Arrangement Resolution, or such other business as may be properly brought before the Meeting, shall be registered holders as at the Record Date of:

- i) the First Lien Notes (or their proxyholders);
- ii) the Unsecured Senior Notes (or their proxyholders);

- iii) the Unsecured Pari Passu Notes (or their proxyholders); and
- iv) the Unsecured Subordinated Notes (or their proxyholders).

Illegible votes, spoiled votes, defective votes and abstentions shall be deemed to be votes not cast. Proxies that are properly signed and dated but which do not contain voting instructions shall be voted in favour of the Arrangement Resolution.

21. **THIS COURT ORDERS** that votes shall be taken at the Meeting on the basis of one vote for each dollar of Voting Claim of the First Lien Notes, Unsecured Senior Notes, Unsecured Pari Passu Notes or Unsecured Subordinated Notes, calculated using the principal amount plus accrued and unpaid interest showing on the records of Holdings or Wireless, as applicable, as at the Record Date on each First Lien Note, Unsecured Senior Note, Unsecured Pari Passu Note and Unsecured Subordinated Note, respectively, and that, unless otherwise ordered by this Court, the Arrangement Resolution can only be passed, with or without variation by:

- a) the registered holders of the First Lien Notes, who collectively represent at least two-thirds in value of the Voting Claims of all First Lien Noteholders who actually vote on the Arrangement (In person or by proxy) at the Meeting; and
- b) the registered holders of the Unsecured Notes who collectively represent at least two-thirds in value of the Voting Claims of all Unsecured Noteholders who actually vote (in person or by proxy) at the Meeting.

Such votes shall be sufficient, but not necessary unless otherwise ordered by this Court, to authorize the Applicant to do all such acts and things as may be necessary or desirable to give effect to the Acquisition Plan on a basis consistent with what is provided for in the Information

Circular without the necessity of any further approval by the Voting Securityholders, subject only to final approval of the Acquisition Plan by this Honourable Court.

22. **THIS COURT ORDERS** that, for purposes of determining whether or not the Acquisition Plan has received the affirmative vote of the Required Majority of the Unsecured Noteholder Class and the First Lien Noteholder Class, the tabulation agent for the Creditor's Meeting will separately record the vote of each Voting Securityholder and in respect of the Unsecured Noteholder Class shall first record the vote of the Unsecured Senior Noteholders, then the votes of the Unsecured Pari Passu Noteholders, and then the votes of the Unsecured Subordinated Noteholders.

23. **THIS COURT ORDERS** that, notwithstanding any provision of this Interim Order, to the extent that the Applicant exercises the Senior Noteholder Payment Election (as defined below), the First Lien Noteholders shall be treated as Unaffected Creditors for all purposes under the Acquisition Plan and any votes cast by the First Lien Noteholders at the Creditor's Meeting shall be disregarded.

Senior Noteholder Payment Election

24. **THIS COURT ORDERS** that, from and after the date of this Interim Order, the Applicant shall, with the consent of the Requisite Majority of the Initial Consenting Noteholders, be authorized to elect (the "**Senior Noteholder Payment Election**") to: (1) repay in full all Indebtedness (as defined in the First Lien Indenture) owing to the First Lien Noteholders at the time of such repayment in an amount to be determined by the First Lien Note Indenture Trustee (a "**First Lien Repayment**") or (2) repay in full all principal and accrued interest (under section 2.01 of the First Lien Indenture) owing under the First Lien Notes at the time of such repayment (a "**First Lien Payment**") and pay into escrow for the sole benefit of the First Lien Noteholders (subject only to any rights or liens of the First Lien Note

Indenture Trustee pursuant to the First Lien Note Indenture or otherwise) any additional amounts, fees or premiums or other Indebtedness that may be claimed to be owing to the First Lien Noteholders at the time of such repayment (the "**Holdback Amount**" and, together with the First Lien Payment, a "**First Lien Payment & Escrow**"). Any such First Lien Repayment or First Lien Payment & Escrow shall be made in consideration for the complete satisfaction, release and discharge of all Indebtedness owing to the First Lien Noteholders pursuant to the First Lien Notes and any and all security granted in favour of the First Lien Noteholders as security for the Indebtedness, with such satisfaction, release and discharge becoming effective upon any such First Lien Repayment or First Lien Payment & Escrow being made. Following any First Lien Payment & Escrow, the final amount to be paid to First Lien Noteholders from the Holdback Amount (if any) shall be determined by the Court or by agreement of the Applicant, the Initial Consenting Noteholders and any First Lien Noteholder with respect to its pro rata share of the Holdback Amount. Any remaining amount of the Holdback Amount, after payments (if any) have been made in respect of any or all First Lien Noteholders (whether by Court order or agreement as above) shall be distributed in accordance with the terms of the Acquisition Plan or as otherwise ordered by this Court.

Early Consent Deadline

25. **THIS COURT ORDERS** that the Early Consent Deadline shall be the date that is five days after the Purchase Price Notice Date (or such other date as the Applicant, Holdings and the Requisite Majority of the Initial Consenting Noteholders may agree).

26. **THIS COURT ORDERS** that compliance with the notice requirement of paragraphs 13 and 14 shall constitute sufficient notice of the Early Consent Deadline.

Alternative CCAA Acquisition Plan

27. **THIS COURT ORDERS** that, pursuant to a further order of this Court, votes cast at the Meeting in respect of the Acquisition Plan may count as votes cast in respect of an Alternative CCAA Plan, on the terms and conditions set forth in the Acquisition Plan.

Hearing of Application for Approval of the Acquisition Plan

28. **THIS COURT ORDERS** that following the Meeting, and in accordance with the terms of any Arrangement Agreement, the Applicant may, but shall not be required to, apply to this Court for final approval of the Acquisition Plan on a date to be determined by the Applicant and this Court (the "Final Hearing Date").

29. **THIS COURT ORDERS** that distribution of the Notice of Application and the Information Circular (including the Interim Order), when sent in accordance with paragraphs 13 and 14 shall constitute good and sufficient service of the Notice of Application and this Interim Order and no other form of service need be effected and no other material need be served unless a Notice of Appearance is served in accordance with paragraph 30.

30. **THIS COURT ORDERS** that any Notice of Appearance served in response to the Notice of Application shall be served on the solicitors for the Applicant as soon as reasonably practicable, and, in any event, no less than five (5) days before the date set by the Court for the hearing of this Application at the following addresses:

NORTON ROSE CANADA LLP
TD South Tower
Suite 2300
Toronto-Dominion Centre
79 Wellington Street West
P.O. Box 128
Toronto, Ontario M5K 1H1

Attention: Orestes Pasparakis and Marc Kestenberg

31. **THIS COURT ORDERS** that, subject to further order of this Court, the only persons entitled to appear and be heard at the hearing of the within Application shall be:

- i) the members of the Mobilicity Group;
- ii) the Director;
- iii) legal counsel to the Initial Consenting Noteholders; and
- iv) any person who has filed and served a Notice of Appearance herein in accordance with the Notice of Application, this Interim Order and the *Rules of Civil Procedure*.

32. **THIS COURT ORDERS** that any materials to be filed by the Mobilicity Group in support of the within Application for final approval of the Acquisition Plan may be filed up to one day prior to the hearing of the Application without further order of this Court.

33. **THIS COURT ORDERS** that in the event the within Application for final approval does not proceed on the date set by the Court for the hearing of this Application, and is adjourned, only those persons who served and filed a Notice of Appearance in accordance with paragraph 30 shall be entitled to be given notice of the adjourned date.

No Right to Declare Default

34. **THIS COURT ORDERS that**, (1) unless leave of this Court is granted on five days' notice to the Applicant, from 12:01 am on the date of this Interim Order until and including the earlier of June 30, 2013 and the Effective Date: no holder of the First Lien Notes, Existing Second Lien Notes, the Unsecured Senior Notes, the Unsecured Pari Passu Notes or the Unsecured Subordinated Notes, nor any of the following material suppliers to the Mobilicity Group: Ericsson Canada Inc.; Ingram Micro Inc., AMDOCS Canadian Managed Services, Inc.,

and Research In Motion Limited, as well as their affiliates, successors and permitted assigns (each a "**Material Supplier**") shall have any rights to terminate, accelerate, amend or declare in default any contract, agreement, instrument or other document to which any member of the Mobilicity Group are a party due to any member of the Mobilicity Group being a party to this proceeding or having made an application to this Court pursuant to section 192 of the CBCA or taking any steps in furtherance thereof; and (2) on consent of the holders of the Existing Second Lien Notes, all holders of the Existing Second Lien Notes are hereby stayed from enforcing the payment or security in respect of the Existing Second Lien Notes.

35. **THIS COURT ORDERS** that the Mobilicity Group shall provide a copy of this Interim Order to each Material Supplier within 5 business days of the date of this Interim Order.

Precedence

36. **THIS COURT ORDERS** that, to the extent of any inconsistency or discrepancy between this Interim Order and the terms of any instrument creating, governing or collateral to the First Lien Notes, Unsecured Senior Notes, the Unsecured Pari Passu Notes and the Unsecured Subordinated Notes, or the articles or by-laws or any shareholders agreement of any member of the Mobilicity Group, this Interim Order shall govern. For greater certainty nothing in this Order shall affect the substantive rights of any First Lien Noteholder.

Extra-Territorial Assistance

37. **THIS COURT** seeks and requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States or other country to act in aid of and to assist this Court in carrying out the terms of this Interim Order.

Variance

38. **THIS COURT ORDERS** that the Applicant shall be entitled to seek leave to vary this Interim Order upon such terms and upon the giving of such notice as this Court may direct.

39. **THIS COURT ORDERS** that the requirement for service of the Notice of Motion is hereby dispensed with.

General

40. **THIS COURT ORDERS** that any interested party (including the Applicant) may apply to this Court to vary or amend this Order (a) on not less than four (4) days notice to the Applicant, counsel to the Initial Consenting Noteholders and any other party or parties likely to be affected by the Order sought; and (b) within seven (7) days of the distribution of the Meeting Materials as set out in Paragraphs 13 and 14, or upon such other notice, if any, as this Court may order.

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

W. Hon. L. J.



APR 26 2013

IN THE MATTER OF AN APPLICATION UNDER SECTION 192 OF THE CANADA BUSINESS
CORPORATIONS ACT, R.S.C. 1985, c. C-44, AS AMENDED, AND RULES 14.05(2) AND
14.05(3) OF THE RULES OF CIVIL PROCEDURE

8440522 CANADA INC.

Applicant

Court File No: CV13-10081-000 C

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

Proceeding commenced at Toronto

**INTERIM ORDER
(Acquisition Plan)**

NORTON ROSE CANADA LLP
TD South Tower
Suite 2300
Toronto-Dominion Centre
79 Wellington Street West
P.O. Box 128
Toronto, Ontario M5K 1H1

Orestes Pasparakis LSUC #: 36851T
Tel: (416) 216-4815
Marc Kestenberg LSUC #: 48932A
Tel: (416) 216-3977
Fax: (416) 360-8277

Lawyers for the Applicant
8440522 Canada Inc.

Exhibit “N”

This is Exhibit N referred to in the
 affidavit of William Aziz
 sworn before me, this 29th
 day of September 2013

Court File No. CV 13-10080-00CL

Richard
 A COMMISSIONER FOR TAKING AFFIDAVITS
 ONTARIO
 SUPERIOR COURT OF JUSTICE
 (COMMERCIAL LIST)

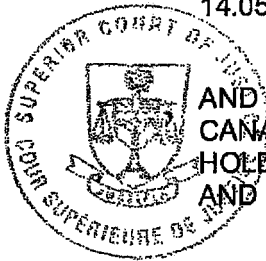
THE HONOURABLE MR.

) FRIDAY, THE 26TH DAY OF

JUSTICE WILTON-SIEGEL

)
) APRIL, 2013

IN THE MATTER OF AN APPLICATION UNDER SECTION 192
 OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C.
 1985, c. C-44, AS AMENDED, AND RULES 14.05(2) AND
 14.05(3) OF THE RULES OF CIVIL PROCEDURE



AND IN THE MATTER OF A PROPOSED ARRANGEMENT OF 8440522
 CANADA INC., AND INVOLVING DATA & AUDIO-VISUAL ENTERPRISES
 HOLDINGS INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
 AND DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

INTERIM ORDER (Recapitalization Plan)

THIS MOTION made by the Applicant, 8440522 Canada Inc. (the "**Applicant**") for an interim order for advice and directions pursuant to section 192 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended (the "**CBCA**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Notice of Application and the affidavit of William E. Aziz sworn April 24, 2013, (the "**Aziz Affidavit**"), including the Plan of Arrangement (the "**Recapitalization Plan**"), which is attached as Schedule E to the draft notice of meeting and information circular (collectively, the "**Information Circular**"), which is attached as Exhibit A to the Aziz Affidavit and on hearing the submissions of counsel for the Applicant and the Initial Consenting Noteholders (as defined in the Recapitalization Plan) and on being advised that the Director appointed under the CBCA (the "**Director**") does not consider it necessary to appear,

Definitions

1. **THIS COURT ORDERS** that all definitions used in this Interim Order shall have the meaning ascribed thereto in the Recapitalization Plan or otherwise as specifically defined herein.

The Meeting

2. **THIS COURT ORDERS** that Data & Audio-Visual Enterprises Holdings Inc. ("**Holdings**") is permitted to call, hold and conduct a meeting (the "**Meeting**") of the registered holders of 9.5% first lien senior secured notes (the "**First Lien Notes**") of Data & Audio-Visual Enterprises Wireless Inc. ("**Wireless**"), registered holders of 15% senior unsecured debentures (the "**Unsecured Senior Notes**") of Holdings, registered holders of unsecured convertible debentures of Holdings ranking pari passu with the Unsecured Senior Notes (the "**Unsecured Pari Passu Notes**") and registered holders of unsecured convertible debentures of Holdings ranking subordinate to the Unsecured Senior Notes and the Unsecured Pari Passu Notes (the "**Unsecured Subordinated Notes**"; and together with the Unsecured Senior Notes and the Unsecured Pari Passu Notes, collectively, the "**Unsecured Notes**"; and collectively the registered holders of the Unsecured Notes and the registered holders of the First Lien Notes, the "**Voting Securityholders**") to be held at the offices of Norton Rose Canada LLP, Royal Bank Plaza, South Tower, 200 Bay Street, Suite 3800, Toronto, Ontario, M5J 2Z4 on May 21, 2013 at 10:00 am to consider and, if determined advisable, pass, with or without variation, a resolution adopting and approving, with or without variation, the Recapitalization Plan (collectively, the "**Arrangement Resolution**").

3. **THIS COURT ORDERS** that the Meeting shall be called, held and conducted in accordance with the CBCA, the Recapitalization Plan, the Information Circular, and the articles and by-laws of the Applicant, subject to what may be provided hereafter and subject to any further order of this Court.

4. **THIS COURT ORDERS** that a member of the board of directors of Holdings, shall preside as the chair of the Meeting and, subject to this Order and any further order of the Court, shall decide all matters relating to the conduct of the Meeting.

5. **THIS COURT ORDERS** that the record date (the "**Record Date**") for determination of the Voting Securityholders entitled to notice of, and to vote at, the Meeting shall be April 25, 2013.

6. **THIS COURT ORDERS** that the only persons entitled to attend or speak at the Meeting shall be:

- a) registered holders of the First Lien Notes as at the Record Date, or their proxyholders;
- b) registered holders of the Unsecured Senior Notes as at the Record Date, or their proxyholders;
- c) registered holders of the Unsecured Pari Passu Notes as at the Record Date, or their proxyholders;
- d) registered holders of the Unsecured Subordinated Notes as at the Record Date, or their proxyholders;
- e) legal counsel and advisors of any of the foregoing;
- f) legal counsel to the Initial Consenting Noteholders;
- g) legal counsel to the Supporting First Lien Noteholders;
- h) the officers, directors, and legal counsel, of the Applicant, Holdings and Wireless;

- i) the Unsecured Senior Notes Indenture Trustee and its legal counsel;
- j) the First Lien Note Indenture Trustee and its legal counsel;
- k) the Director; and
- l) other persons who may receive the permission of the chair of the Meeting.

7. **THIS COURT ORDERS** that the Mobilicity Group may transact such other business at the Meeting as is contemplated in the Information Circular, or as may otherwise be properly before the Meeting.

Quorum

8. **THIS COURT ORDERS** that quorum at the Meeting shall be one registered holder of the First Lien Notes and two registered holders of any of the Unsecured Notes, present in person or by proxy at the opening of the Meeting who are entitled to vote at the Meeting.

Amendments to the Recapitalization Plan

9. **THIS COURT ORDERS** that the Applicant is authorized to make, subject to: (i) the prior consent of the Initial Consenting Noteholders (to the extent the amendment, restatement, modification or supplement described hereinafter may affect holders of the First Lien Notes, holders of the Unsecured Senior Notes, holders of the Existing Second Lien Notes, or the Backstop Parties); and (ii) paragraph 10 below, such amendments, restatements, modifications or supplements to the Recapitalization Plan as it may determine without any additional notice to the Voting Securityholders, or others entitled to receive notice under paragraphs 13 and 14 hereof, and the Recapitalization Plan, as so amended, modified, restated or supplemented shall be the Recapitalization Plan to be submitted to the Voting Securityholders at the Meeting and shall be the subject of the Arrangement Resolution. Amendments, modifications, restatements or supplements may be made following the

Meeting, but shall be subject to review and, if appropriate, further direction by this Court at the hearing for the final approval of the Recapitalization Plan.

10. **THIS COURT ORDERS** that, if any amendments, modifications or supplements to the Recapitalization Plan as referred to in paragraph 9, above, would, if disclosed, reasonably be expected to affect a Voting Securityholder's decision to vote for or against the Arrangement Resolution, notice of such amendment, modification or supplement shall be distributed by the Applicant to the Voting Securityholders by such method as the Applicant may determine is most practicable and expedient in the circumstances.

Amendments to the Information Circular

11. **THIS COURT ORDERS** that, subject to paragraph 16 below, the Applicant is authorized to make such amendments, revisions and/or supplements to the draft Information Circular as it may determine and the Information Circular, as so amended, revised and/or supplemented, shall be the Information Circular to be distributed in accordance with paragraphs 13 and 14.

Adjournments and Postponements

12. **THIS COURT ORDERS** that the Applicant, if it deems advisable, is specifically authorized to adjourn or postpone the Meeting on one or more occasions, without the necessity of first convening the Meeting or first obtaining any vote of the Voting Securityholders respecting the adjournment or postponement, and notice of any such adjournment or postponement shall be given by the Applicant by such method as the Applicant may determine is most practicable and expedient in the circumstances. This provision shall not limit the authority of the Chair of the Meeting in respect of adjournments and postponements.

Notice of Meeting

13. **THIS COURT ORDERS** that, in order to effect notice of the Meeting, the Applicant shall send the Information Circular (including this Interim Order), the notice of the Meeting, the forms of proxy and an Election Form along with such amendments or additional documents as the Applicant may determine are necessary or desirable and are not inconsistent with the terms of this Interim Order (collectively, the **"Meeting Materials"**), to the following:

- a) the Voting Securityholders at the close of business on the Record Date, at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting, by one or more of the following methods:
 - i) by pre-paid ordinary or first class mail at the addresses of the Voting Securityholders as they appear on the books and records of Holdings, or its registrar and transfer agent, at the close of business on the Record Date and if no address is shown therein, then the last address of the person known to the corporate secretary of Holdings;
 - ii) by delivery, in person or by recognized courier service or inter-office mail, to the address specified in (i) above; or
 - iii) by facsimile or electronic transmission to any Voting Securityholder, who is identified to the satisfaction of the Applicant, who requests such transmission in writing and, if required by the Applicant, who is prepared to pay the charges for such transmission;
- b) the Unsecured Senior Note Indenture Trustee (as defined in the Information Circular) at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting;

- c) the First Lien Note Indenture Trustee (as defined in the Information Circular) at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the meeting; and
- d) the respective directors and auditors of Holdings, Wireless, Leasing and the Applicant and to the Director appointed under the CBCA, by delivery in person, by recognized courier service, by pre-paid ordinary or first class mail or, with the consent of the person, by facsimile or electronic transmission, at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting.

and that compliance with this paragraph shall constitute sufficient notice of the Meeting.

14. **THIS COURT ORDERS** that the Applicant is hereby directed to distribute the Notice of Application and the Information Circular (including this Interim Order), and any other communications or documents determined by the Applicant to be necessary or desirable (collectively, the "Court Materials") to the registered Existing Equity Holders of Holdings by any method permitted for notice to the Voting Securityholders as set forth in paragraph 13 above, concurrently with the distribution described in paragraph 13 of this Interim Order. Distribution to such persons shall be to their addresses as they appear on the books and records of Holdings at the close of business on the Record Date.

15. **THIS COURT ORDERS** that accidental failure or omission by the Applicant to give notice of the Meeting or to distribute the Meeting Materials or Court Materials to any person entitled by this Interim Order to receive notice, or any failure or omission to give such notice as a result of events beyond the reasonable control of the Applicant, or the non-receipt of such notice shall, subject to further order of this Court, not constitute a breach of this Interim Order nor shall it invalidate any resolution passed or proceedings taken at the Meeting. If any such

failure or omission is brought to the attention of the Applicant, it shall use its best efforts to rectify it by the method and in the time most reasonably practicable in the circumstances.

16. **THIS COURT ORDERS** that the Applicant is hereby authorized to make, with the consent of the Initial Consenting Noteholders, such amendments, revisions or supplements to the Meeting Materials and Court Materials (subject to paragraphs 9 and 10 in the case of any amendments, revisions or supplements to the Recapitalization Plan), as the Applicant may determine in accordance with the terms of the Arrangement Agreement and the Recapitalization Plan ("**Additional Information**"), and that notice of such Additional Information may, subject to paragraph 10, above, be distributed by press release, newspaper advertisement, pre-paid ordinary mail, or by the method most reasonably practicable and expedient in the circumstances, as determined by the Applicant.

Service

17. **THIS COURT ORDERS** that distribution of the Meeting Materials and Court Materials pursuant to paragraphs 13 and 14 of this Interim Order shall constitute notice of the Meeting and good and sufficient service of the within Application upon the persons described in paragraphs 13 and 14 and that those persons are bound by any orders made on the within Application. Further, no other form of service of the Meeting Materials or the Court Materials or any portion thereof need be made, or notice given or other material served in respect of these proceedings and/or the Meeting to such persons or to any other persons, except to the extent required by paragraph 10, above.

Solicitation and Revocation of Proxies and Election Forms

18. **THIS COURT ORDERS** that Holdings and the Applicant are authorized to use the proxies and Election Forms substantially in the form of the drafts accompanying the Information Circular, with such amendments and additional information as Holdings and the

Applicant may determine are necessary or desirable, with the consent of the Initial Consenting Noteholders, subject to the terms of the Arrangement Agreement and the Recapitalization Plan. Holdings and the Applicant are authorized, at their expense, to solicit proxies and Election Forms, directly or through their officers, directors or employees, and through such agents or representatives as they may retain for that purpose, and by mail or such other forms of personal or electronic communication as they may determine. Holdings or the Applicant may waive, with the consent of the Initial Consenting Noteholders the time limits set out in the Information Circular for the deposit or revocation of proxies by Voting Securityholders, or Election Forms by Eligible Investors, if Holdings or the Applicant deems it advisable to do so.

19. **THIS COURT ORDERS** that Voting Securityholders shall be entitled to revoke their proxies in accordance with section 148(4) of the CBCA (except as the procedures of that section are varied by this paragraph) provided that any instruments in writing delivered pursuant to s.148(4)(a)(i) of the CBCA: (a) may be deposited at the registered office of the Applicant or with the transfer agent of the Applicant as set out in the Information Circular; and (b) any such instruments must be received by the Applicant or its transfer agent not later than 5:00 p.m. two business days immediately preceding the Meeting (or any adjournment or postponement thereof).

Voting

20. **THIS COURT ORDERS** that the only persons entitled to vote in person or by proxy on the Arrangement Resolution, or such other business as may be properly brought before the Meeting, shall be registered holders as at the Record Date of:

- i) the First Lien Notes (or their proxyholders);
- ii) the Unsecured Senior Notes (or their proxyholders);

- iii) the Unsecured Pari Passu Notes (or their proxyholders); and
- iv) the Unsecured Subordinated Notes (or their proxyholders).

Illegible votes, spoiled votes, defective votes and abstentions shall be deemed to be votes not cast. Proxies that are properly signed and dated but which do not contain voting instructions shall be voted in favour of the Arrangement Resolution.

21. **THIS COURT ORDERS** that votes shall be taken at the Meeting on the basis of one vote for each dollar of Voting Claim of the First Lien Notes, Unsecured Senior Notes, Unsecured Pari Passu Notes or Unsecured Subordinated Notes, calculated using the principal amount plus accrued and unpaid interest showing on the records of Holdings or Wireless, as applicable, as at the Record Date on each First Lien Note, Unsecured Senior Note, Unsecured Pari Passu Note and Unsecured Subordinated Note, respectively, and that, unless otherwise ordered by this Court, the Arrangement Resolution can only be passed, with or without variation by:

- a) the registered holders of the First Lien Notes, who collectively represent at least two-thirds in value of the Voting Claims of all First Lien Noteholders who actually vote on the Arrangement (in person or by proxy) at the Meeting; and
- b) the registered holders of the Unsecured Notes who collectively represent at least two-thirds in value of the Voting Claims of all Unsecured Noteholders who actually vote (in person or by proxy) at the Meeting.

Such votes shall be sufficient, but not necessary unless otherwise ordered by this Court, to authorize the Applicant to do all such acts and things as may be necessary or desirable to give effect to the Recapitalization Plan on a basis consistent with what is provided for in the Information Circular without the necessity of any further approval by the Voting

Securityholders, subject only to final approval of the Recapitalization Plan by this Honourable Court.

22. **THIS COURT ORDERS** that, for purposes of determining whether or not the Recapitalization Plan has received the affirmative vote of the Required Majority of the Unsecured Noteholder Class and the First Lien Noteholder Class, the tabulation agent for the Creditor's Meeting will separately record the vote of each Voting Securityholder and in respect of the Unsecured Noteholder Class shall first record the vote of the Unsecured Senior Noteholders, then the votes of the Unsecured Pari Passu Noteholders, and then the votes of the Unsecured Subordinated Noteholders..

23. **THIS COURT ORDERS** that regardless of whether or not the Arrangement Resolution is approved by the Required Majority of First Lien Noteholders, Wireless and the First Lien Indenture Trustee may, with the consent of the Supporting First Lien Noteholders, apply the votes taken in respect of the First Lien Notes at the Meeting to any amendment of the First Lien Indenture that is consistent with the matters contained in the First Lien Supplemental Indenture, provided that any such amendment is conducted pursuant to and in accordance with the amendment provisions of the First Lien Indenture.

Early Consent Deadline and Election Date.

24. **THIS COURT ORDERS** that the Early Consent Deadline shall be May 14, 2013 (or such later date as the Applicant, Holdings and the Initial Consenting Noteholders may agree).

25. **THIS COURT ORDERS** that the Election Date shall be May 14, 2013 (or such later date as the Applicant, Holdings and the Initial Consenting Noteholders may agree).

26. **THIS COURT ORDERS** that compliance with the notice requirement of paragraphs 13 and 14 shall constitute sufficient notice of the Early Consent Deadline and the Election Date.

Alternative CCAA Recapitalization Plan

27. **THIS COURT ORDERS** that, pursuant to a further order of this Court, votes cast at the Meeting in respect of the Recapitalization Plan may count as votes cast in respect of an Alternative CCAA Plan, on the terms and conditions set forth in the Recapitalization Plan.

Hearing of Application for Approval of the Recapitalization Plan

28. **THIS COURT ORDERS** that following the Meeting, and in accordance with the terms of the arrangement agreement among the members of the Mobilicity Group attached as Schedule D to the Information Circular, the Applicant may, but shall not be required to, apply to this Court for final approval of the Recapitalization Plan on a date to be determined by the Applicant and this Court.

29. **THIS COURT ORDERS** that distribution of the Notice of Application and the Information Circular (including the Interim Order), when sent in accordance with paragraphs 13 and 14 shall constitute good and sufficient service of the Notice of Application and this Interim Order and no other form of service need be effected and no other material need be served unless a Notice of Appearance is served in accordance with paragraph 30.

30. **THIS COURT ORDERS** that any Notice of Appearance served in response to the Notice of Application shall be served on the solicitors for the Applicant as soon as reasonably practicable, and, in any event, no less than five (5) days before the date set by the Court for the hearing of this Application at the following addresses:

NORTON ROSE CANADA LLP
TD Waterhouse Tower
Suite 2300
Toronto-Dominion Centre
79 Wellington Street West
P.O. Box 128
Toronto, Ontario M5K 1H1

Attention: Orestes Pasparakis and Marc Kestenberg

31. **THIS COURT ORDERS** that, subject to further order of this Court, the only persons entitled to appear and be heard at the hearing of the within Application shall be:

- i) the members of the Mobilicity Group;
- ii) the Director;
- iii) legal counsel to the Initial Consenting Noteholders; and
- iv) any person who has filed and served a Notice of Appearance herein in accordance with the Notice of Application, this Interim Order and the *Rules of Civil Procedure*.

32. **THIS COURT ORDERS** that any materials to be filed by the Mobilicity Group in support of the within Application for final approval of the Recapitalization Plan may be filed up to one day prior to the hearing of the Application without further order of this Court.

33. **THIS COURT ORDERS** that in the event the within Application for final approval does not proceed on the date set by the Court for the hearing of this Application, and is adjourned, only those persons who served and filed a Notice of Appearance in accordance with paragraph 30 shall be entitled to be given notice of the adjourned date.

No Right to Declare Default

34. **THIS COURT ORDERS** that, (1) unless leave of this Court is granted on five days' notice to the Applicant, from 12:01 am on the date of this Interim Order until and including the earlier of June 30, 2013 and the Effective Date: no holder of the First Lien Notes, Existing Second Lien Notes, the Unsecured Senior Notes, the Unsecured Pari Passu Notes or the Unsecured Subordinated Notes, nor any of the following material suppliers to the Mobilicity Group: Ericsson Canada Inc.; Ingram Micro Inc., AMDOCS Canadian Managed Services, Inc.,

and Research In Motion Limited, as well as their affiliates, successors and permitted assigns (each a "**Material Supplier**") shall have any rights to terminate, accelerate, amend or declare in default any contract, agreement, instrument or other document to which any member of the Mobilicity Group are a party due to any member of the Mobilicity Group being a party to this proceeding or having made an application to this Court pursuant to section 192 of the CBCA or taking any steps in furtherance thereof; and (2) on consent of the holders of the Existing Second Lien Notes, all holders of the Existing Second Lien Notes are hereby stayed from enforcing the payment or security in respect of the Existing Second Lien Notes.

35. **THIS COURT ORDERS** that the Mobilicity Group shall provide a copy of this Interim Order to each Material Supplier within 5 business days of the date of this Interim Order.

Precedence

36. **THIS COURT ORDERS** that, to the extent of any inconsistency or discrepancy between this Interim Order and the terms of any instrument creating, governing or collateral to the First Lien Notes, Unsecured Senior Notes, the Unsecured Pari Passu Notes and the Unsecured Subordinated Notes, or the articles or by-laws or any shareholders agreement of any member of the Mobilicity Group, this Interim Order shall govern. For greater certainty nothing in this Order shall affect the substantive rights of any First Lien Noteholder.

Extra-Territorial Assistance

37. **THIS COURT** seeks and requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States or other country to act in aid of and to assist this Court in carrying out the terms of this Interim Order.

Variance

38. **THIS COURT ORDERS** that the Applicant shall be entitled to seek leave to vary this Interim Order upon such terms and upon the giving of such notice as this Court may direct.

39. **THIS COURT ORDERS** that the requirement for service of the Notice of Motion is hereby dispensed with.

General

40. **THIS COURT ORDERS** that any interested party (including the Applicant) may apply to this Court to vary or amend this Order (a) on not less than four (4) days notice to the Applicant, counsel to the Initial Consenting Noteholders and any other party or parties likely to be affected by the Order sought; and (b) within seven (7) days of the distribution of the Meeting Materials as set out in Paragraphs 13 and 14, or upon such other notice, if any, as this Court may order.

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

A. H. - L. J.



APR 26 2013

IN THE MATTER OF AN APPLICATION UNDER SECTION 192 OF THE CANADA BUSINESS
CORPORATIONS ACT, R.S.C. 1985, c. C-44, AS AMENDED, AND RULES 14.05(2) AND
14.05(3) OF THE RULES OF CIVIL PROCEDURE

8440522 CANADA INC.

Applicant

Court File No: CV-13-10080-000

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

Proceeding commenced at Toronto

**INTERIM ORDER
(Recapitalization Plan)**

NORTON ROSE CANADA LLP

TD South Tower

Suite 2300

Toronto-Dominion Centre

79 Wellington Street West

P.O. Box 128

Toronto, Ontario M5K 1H1

Orestes Pasparakis LSUC #: 3685IT

Tel: (416) 216-4815

Marc Kestenberg LSUC #: 48932A

Tel: (416) 216-3977

Fax: (416) 360-8277

Lawyers for the Applicant

8440522 Canada Inc.

Exhibit “O”

Government
of CanadaGouvernement
du Canada

Canada

Canada News Centre

Industry
CanadaIndustrie
CanadaHarper Government Protecting Consumers and Increasing
Competition in Canadian Wireless Sector

Ottawa, Ontario, June 4, 2013—The Honourable Christian Paradis, Minister of Industry, today announced decisions to further promote competition in the Canadian wireless telecommunications market to give Canadians access to the latest technology at better prices.

"Our government is clearly committed to encouraging competition in the wireless market so that Canadian families will benefit from cutting-edge technologies and services at affordable prices," said Minister Paradis. "I believe the basis of a strong economy is a competitive marketplace and consumer choice. We will continually review the regulations and policies that apply to the wireless telecommunications sector to promote at least four wireless providers in every region of the country so that Canadian consumers benefit from competition."

The Minister also announced that TELUS' application to transfer Mobilicity's spectrum licences will not be approved. Mobilicity's licences were among those set aside for new entrants in the 2008 Advanced Wireless Services (AWS) auction, which included restrictions on transferring licences to incumbents.

"Our government has been clear that spectrum set aside for new entrants was not intended to be transferred to incumbents. We will not waive this condition of licence and will not approve this, or any other, transfer of set-aside spectrum to an incumbent ahead of the five-year limit," said Minister Paradis. "Our government will continue to allow wireless providers access to the spectrum they need to compete and improve services to Canadians. We are seeing Canadian consumers benefit from our policies and we will not allow the sector to move backwards. I will not hesitate to use any and every tool at my disposal to support greater competition in the market."

In addition, the Government also outlined improvements to the policy on spectrum licence transfers that will be released in the coming weeks, which followed consultations launched in March 2013. Going forward, proposed spectrum transfers that result in undue spectrum concentration—and therefore diminish competition—will not be permitted. This policy will apply to all commercial mobile spectrum licences, including the 2008 AWS licences.

All applications for licence transfers will be reviewed on a case-by-case basis and decisions will be issued publicly to increase transparency.

In light of these decisions, the timing of the 700 MHz auction has been updated. The application deadline will now be September 17, 2013, and the auction will commence on January 14, 2014. These new dates will provide companies with additional time to consider today's decisions and finalize their approaches to the auction process.

01

In 2008, the Government set aside AWS spectrum for new entrants and introduced roaming and tower-sharing policies. In 2012, foreign investment restrictions were lifted for telecom companies that hold less than a 10-percent share of the total Canadian market. Earlier this year, the Government announced several measures, including expanding and extending the requirement for companies to provide roaming to competitors, strengthening cell tower sharing rules, and ensuring at least four providers in every region can acquire spectrum in the upcoming 700 MHz and 2500 MHz auctions.

For further information (media only), please contact:

Margaux Stastny
Director of Communications
Office of the Honourable Christian Paradis
Minister of Industry
613-995-9001

Media Relations
Industry Canada
613-943-2502

[E-mail to a Friend](#)

Date Modified: 2013-06-04

Exhibit “P”

Commercial List No. CV 13-10016-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

In the matter of a Note Purchase, Guarantee and Backstop Agreement dated February 6, 2013 made by Data & Audio-Visual Enterprises Wireless Inc. Equity Financial Trust Company, and certain purchasers of notes thereunder whose identity is unknown (referred to in the Title of Proceedings herein as "The Unknown Purchasers")

B E T W E E N:

THE CATALYST CAPITAL GROUP INC.

Applicant

-and-

DATA & AUDIO – VISUAL ENTERPRISES WIRELESS INC., DATA & AUDIO – VISUAL ENTERPRISES HOLDINGS INC., DATA & AUDIO – VISUAL ENTERPRISES LEASING INC., EQUITY FINANCIAL TRUST COMPANY, AND MARRET ASSET MANAGEMENT INC., CI INVESTMENTS INC., GUARDIAN CAPITAL LP, AND GCIC LTD.

Respondents

APPLICATION UNDER section 248 of the *Ontario Business Corporations Act*, R.S.O. 1990, c. B.16, as amended and Rule 14.05 (3)(d) of the *Rules of Civil Procedure*.

FURTHER AMENDED

NOTICE OF APPLICATION

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on before a Judge of the Ontario Superior Court of Justice presiding over the Commercial List for scheduling and such other directions as may be appropriate on a date to be fixed by this Court at 9:30 a.m., or so soon after that time as the matter may be heard, at 330 University Avenue, Toronto, Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date: February 25, 2013

(April 19, 2013)

(July 9, 2013)

Local Registrar

330 University Avenue
7th Floor
Toronto, Ontario

TO: Data and Audio –Visual Enterprises Wireless Inc.
101 Exchange Avenue
Vaughan, Ontario
L4K 5R6

AND TO: EQUITY FINANCIAL TRUST COMPANY
200 University Avenue
Suite 400
Toronto, Ontario
M5H 4H1

AND TO: GOODMAN'S LLP
333 Bay Street
Suite 3400
Toronto ON
Robert Chadwick

M5H 2S7
Solicitors for Marret Asset Management Inc., CI Investments Inc., Guardian Capital LP, and GCIC Ltd.

APPLICATION

1. The Catalyst Capital Group Inc. (“Applicant”) makes application for:
 - (a) an order that Data & Audio-Visual Enterprises Wireless Inc. (the “**Corporation**”) and Equity Financial Trust Company (“**Trustee**”), the trustee under the indenture dated as of April 29, 2011 among the Corporation, the purchasers of the securities thereunder (the “**Senior Noteholders**”), and the Guarantors (as defined therein) (the “**Senior Indenture**”), disclose to the Applicant an unredacted copy of the Note Purchase, Guarantee and Backstop Agreement dated February 6, 2013 among the Corporation., the Guarantors (as defined therein), and Trustee (the “**NPA**”) and unredacted copies of all documents and agreements referred to in the NPA;
 - (b) an order requiring the Corporation to issue a correct and complete press release setting forth details of the financing entered into by the Corporation on February 6, 2013 (the “**New Financing**”) and correcting the contents of the press release issued by the Corporation on February 12, 2013 (the “**Press Release**”) and any additional disclosure that may have been made by the Respondents in relation to the New Financing since that time;
 - (c) an order that the Corporation and Equity disclose to the Applicant all information disclosed to other Senior Noteholders in advance of obtaining their consent under section 9.02 of the Senior Indenture to enter into the Supplemental Indenture

made as of February 6, 2013, which purported to amend the Senior Indenture (the **“Supplemental Indenture”**);

- (d) an order rectifying the adverse impacts of the New Financing and certain amendments purported to have been made to the Senior Indenture and to the Security Agreement dated as of April 29, 2011, on or about February 6, 2013 (the **“Amendments”**) upon the rights and interests of the Applicant, including but not limited to orders:
 - (i) setting aside the Supplemental Indenture;
 - (ii) setting aside the NPA and all transactions undertaken pursuant to the NPA, including but not limited to the payment of any fees thereunder, and,
 - (iii) removing Equity as the collateral agent under the NPA;
- (e) pursuant to Rule 14.05(3), a determination of rights including:
 - (i) an order that the amendment purporting to have been made to the Negative Pledge set out in Section 4(1)(c) of the Security Agreement, as a result of and purporting to have been made by actions set out in the Supplemental Indenture, is null and void and of no force and effect;
 - (ii) a declaration giving effect to the determination sought in paragraph 1(e)(i) herein;

- (iii) an order setting aside the New Notes and any liens which have been issued pursuant to the New Financing in contravention of Section 4(1)(c) of the Security Agreement;
 - (iv) such additional relief as may be appropriate, following further review of the documentation provided to the Applicant including, if so advised, an interim, interlocutory and permanent injunction restraining the Respondents, or any person having knowledge of any such order from doing anything, directly or indirectly, which would constitute a breach of the Negative Pledge set out in Section 4(1)(c) of the Security Agreement, and
 - (ee) a declaration that the Initial Notes, the Bridge Funding Fee, and the Notes issued in payment of the Bridge Funding Fee contravene section 347 of the Criminal Code of Canada and are invalid and unenforceable;
 - (f) the costs of this application; and
 - (g) such further and other orders as may seem just.
2. The grounds for the application are set out in the Further Amended Schedule A hereto, which the Applicant intends to file as part of the Application Record herein.
 3. The following documentary evidence will be used at the hearing of the application:
 - (a) the Affidavit of Gabriel de Alba, sworn February 26, 2013, and

- (b) Such further and other material as counsel may advise and this Honourable Court may permit.

February 25, 2013
(April 19, 2013)
(July 9, 2013)

BELLMORE & MOORE
Barristers & Solicitors
393 University Avenue
Suite 1600
Toronto, Ontario
M5G 1E6

David C. Moore – LSUC # 16996U
Diana Soos – LSUC #49914P

Tel. No. (416) 581-1818
Fax. No. (416) 581 -1279

Lawyers for the Applicant

Further Amended
Schedule "A"

- (a) The Applicant is the holder of in excess of 25% of the securities ("Senior Notes") that were issued under the Senior Indenture.
- (b) On February 6, 2013, the Corporation and others entered into the NPA and issued \$15 million of Second Lien Notes. Concurrent with the issuance of these notes, the Corporation paid a Bridge Funding Fee of \$8,250,000 through the issuance of additional Second Lien Notes.
- (c) On February 12, 2013, the Corporation issued the Press Release announcing the New Financing. The contents of this Press Release did not completely or accurately disclose the terms of the New Financing. While the Applicant does not have full disclosure of all the terms of said financing, based upon the limited information provided to date, the Press Release did not disclose: (a) the \$8,250,000 Bridge Funding Fee; (b) the fact that any further advances under the New Financing are contingent upon the institution and completion of proceedings by the Corporation for a plan of arrangement under the CBCA; (c) that the interest rate coupon on the second lien notes is 15.5%, and (d) the payment of a liquidity fee of another \$7,000,000 payable in cash. All of such payments are or may be made in advance of the maturity of the Senior Notes and to the prejudice of the Senior Notes.
- (d) On the same day, counsel for the Applicant was notified by counsel for the Corporation that certain terms of the Senior Indenture had been amended as a necessary prerequisite

to permit the New Financing to proceed and purportedly in accordance with the amending power in section 9.02 of the Senior Indenture. The Applicant was not notified nor was its vote solicited in connection with such amendments. Said amendments were detailed in the Supplemental Indenture.

- (e) Section 9.02 of the Senior Indenture grants the Corporation and the Trustee limited power to amend the Senior Indenture and its Collateral Documents with the consent of holders of at least a majority in aggregate principal amount of the then outstanding Senior Notes. Section 9.02 requires that the Trustee be satisfied of the requisite consent of Senior Noteholders. Section 9.02(9) provides that without the consent of each Senior Noteholder affected, an amendment may not make any change to the Collateral Documents (as defined in the Senior Indenture and which includes a security agreement in relation to the Senior Notes) that would be in any way adverse to the Senior Noteholders. In addition, Section 9.09(12) provides that without the consent of all Senior Noteholders affected, there can be no amendment or modification of any of the provisions of the Senior Indenture or the related definitions affecting the ranking of the Senior Notes in any manner adverse to holders of the Senior Notes.
- (f) Based upon the information provided to date, it appears that the amending provisions have been violated in that, *inter alia*, the Security Agreement applicable to the Senior Notes (one of the Collateral Documents) has been varied by relaxing the Negative Covenant contained in paragraph 4.1(c) thereof, contrary to the applicable amending provisions.

- (g) The Corporation sought and obtained the consent of a majority of the Senior Noteholders without advising the Applicant and the Applicant was unaware that such consent was being sought or that the Corporation was pursuing a New Financing that would require amendment to the Senior Indenture and the Collateral Documents.
- (h) Immediately following the issuance of the February 12, 2013 Press Release by the Corporation, the Applicant both directly and through counsel made repeated attempts to obtain copies of the NPA and related documents to enable the Applicant to fully understand the New Financing, the amendments to the Senior Indenture and Collateral Documents, whether such amendments had been properly approved, and the impact of the foregoing on the legal and economic rights and interests of the Senior Noteholders.
- (i) Initially, the Corporation and Equity Financial Trust Company refused to provide the NPA to the Applicant, citing confidentiality issues and constraints. The Applicant made further requests to obtain the NPA and indicated that it was willing to receive a redacted version so long as the documentation provided would enable the Applicant to understand and analyze the terms of the New Financing.
- (j) On February 19, 2013, the Corporation advised that counsel for the purchasers of the Second Lien Notes issued under the New Financing, and not the Corporation, was determining what redactions would be made to the NPA before its delivery to the Applicant. On February 20, 2013, a redacted version of the NPA was delivered to counsel for the Applicant. This documentation contained 35 separate redactions to substantive provisions of the NPA, including redactions relating to the definitions; to the

identification of the contractual documents comprising the NPA; to the conditions precedent affecting the availability of funds under the NPA; to the representations and warranties of the Corporation; to the use of the funds; and to the events of default. In addition, the documentation delivered failed to provide all of the schedules to the NPA, including Schedule F, which apparently sets out the terms of the CBCA plan of arrangement required by the NPA.

- (k) Upon receipt of the foregoing materials, it became clear that the documentation provided was substantially incomplete and that a large number of material terms of the New Financing had been redacted. Accordingly, on February 21, 2013, the Applicant's counsel wrote to the Corporation pointing out the deficiencies in the documentation which had been delivered the previous day. Said correspondence contained a detailed list of the redactions and recited the need for delivery of the NPA and all of the schedules thereto in a form which would enable a meaningful review of the documentation by the Applicant.
- (l) On Thursday, February 21, 2013, the Corporation delivered a further version of the NPA in which many of the 35 redactions were removed. Based upon a review of this document, it appears that one of the purposes of the initial redactions was to withhold the existence of additional documents which are essential to the terms of the New Financing, namely documents referred to therein as the "Cash Flow Forecast", a "Disclosure Letter" and "Adequate Protection Letter".

- (m) Based on the information available to date, there are several unusual and prejudicial features to the NPA, including but not limited to: (a) the financial terms of the NPA, including the maturity date, the interest rate, and fees thereunder; (b) the issuance of new liens without appropriate provisions to provide full and complete subordination to and protection of the Senior Notes with respect to any action to realize upon the collateral; and (c) the absence of appropriate fiduciary out provisions. There are other issues regarding the terms of the NPA which the Applicant has not been able to assess due to the failure of the Corporation to provide the disclosure sought by the Applicant.

(mm) Pursuant to Articles 3.3, 3.4, 8 and 11.1 of the NPA, on or about February 6, 2013, Initial Notes (as defined in the NPA) were issued with the following attributes:

- (i) the Initial Notes totalled \$15,000,000 and bear interest at 15.5% per annum;
- (ii) the Initial Notes fall due on a Maturity Date which is no later than May 30, 2013;
- (iii) concurrent with the issuance of the Initial Notes, the Issuers paid the Purchasers a Bridge Funding Fee in the amount of \$8,250,000;
- (iv) the Bridge Funding Fee was paid through the issuance of further Notes in the amount of \$8,250,000 which also bear interest at 15.5% per annum and which also are payable no later than May 30, 2013, and
- (v) the Bridge Funding Fee is deemed to be fully earned and payable regardless of whether any additional loans, beyond the Initial Notes, are ever advanced.

- (mmm) The provisions of the Initial Notes, the Bridge Funding Fee and the Notes which have been issued to pay the Bridge Funding Fee violate section 347 of the Criminal Code of Canada by reason of the fact that the effective interest rate applicable thereto is in excess of 150% per annum, more than double the amount prescribed as a criminal rate of interest.
- (mmmm) Consequently the indebtedness created by the Initial Notes and by the Notes issued to satisfy the Bridge Funding Fee is illegal and unenforceable.
- (n) The NPA was made as of February 6, 2013, the same date as the Supplemental Indenture. Prior to that date, the respondent Equity Financial Trust Company had at all times been the trustee and collateral agent for the benefit of the Senior Noteholders under the Senior Indenture and owed fiduciary and other duties of the Senior Noteholders and those parties alone. However, on February 6, 2013, the Corporation caused and the Trustee agreed to executed the NPA and thereby become the collateral agent under the NPA, with resulting and conflicting duties to the holders of Second Lien Notes.
- (o) As Equity Financial Trust Company derives benefits under the NPA, it was in a conflict of duty and interest under section 9.02 of the Senior Indenture insofar as it executed the Supplement Indenture. Moreover, Equity Financial Trust Company remains in an ongoing conflict of duties, because, *inter alia*, there may arise points of difference between the Senior Notes and the Second Lien Notes under the NPA in the timing of the maturations of these notes and impairment of senior security for the Senior Notes.
- (oo) As of the date of the institution and amendment of the within proceedings, an Event of Default, as defined in the Indenture, has not yet occurred. Despite the absence of an

Event of Default, the Trustee owed certain duties to *all* of the Senior Noteholders and is obliged in law to act in accordance with certain basic principles, namely:

- (1) The Trustee must act in an impartial, and even-handed manner as between the Senior Noteholders;
- (2) The Trustee must act fairly and with reasonable care in performing its duties under the Indenture;
- (3) The Trustee must refrain from assisting, acquiescing, or participating in transactions where the majority of the Senior Noteholders under the Indenture abuse their position by using powers under the Indenture "...to prejudice the rights of another Holder of a Note or to obtain a preference or priority over another Holder of a Note";
- (4) The Trustee must refrain from assisting, acquiescing, or participating in transactions purportedly approved by the majority of Senior Noteholders which the Trustee knows or ought to know are on terms which are not in accordance with usual commercial terms or practices, or which are otherwise unfair or unduly prejudicial to, or which unreasonably disregard the legitimate interests and expectations of the remaining Senior Noteholders;
- (5) The Trustee must refrain from assisting with, acquiescing, or participating in transactions which conflict with the duties of loyalty, good faith and care which it

owes to all Senior Noteholders, including the duty to act solely and faithfully in their best interests, and,

- (6) The Trustee is required to take reasonable steps to ensure that there is an equality of information available to all Senior Noteholders in respect of matters which affect their interests, and must refrain from assisting, acquiescing or participating in transactions or actions which give rise to informational advantages to one group of Senior Noteholders or which in any way mislead any of the Senior Noteholders.

(ooo) The Trustee has violated each and every one of the above referenced duties. In particular:

- (1) With respect to paragraph (oo)(1) herein, by assisting and participating in the New Financing, the Trustee has acted in a manner which prefers the interests of one group of the Senior Noteholders (who have obtained or will obtain significant fees, de facto control over the assets and affairs of the Corporation, preferences in respect of other debt held by them, informational advantages, and other benefits, the full extent of which has not yet been ascertained), over the interests of the Applicant and the other minority Senior Noteholders;
- (2) With respect to paragraph (oo)(2) herein, when it signed the Supplemental Indenture, the Trustee failed to independently consider, or consider at all, whether the procedural and substantive provisions of the Indenture had been complied with, and was negligent in its execution and delivery of the Supplemental Indenture;

- (3) With respect to paragraph (oo)(3) herein, the Trustee knew or ought to have known that the terms of the New Financing provided material financial and other benefits and advantages to the participants therein, and that the Senior Noteholders were improperly using their majority under the Indenture to "...prejudice the rights of another Holder of a Note or to obtain a preference or priority over another holder of a Note" by, *inter alia* enacting amendments to the Collateral Documents which adversely changed the Negative Pledge contained in the Security Agreement without the consent of *all* of the Senior Noteholders;
- (4) With respect to paragraph (oo)(4) herein, the Trustee knew or ought to have known that the terms of the New Financing were contrary to normal commercial terms and practices and were oppressive to the minority Senior Noteholders by reason of *inter alia*:
- (i) the immediate payment of fees in the amount of \$8.25MM and interest at 15.5 % , resulting in an effective interest rate of well in excess of 150% per annum in contravention of Section 347 of the *Criminal Code of Canada*,
- (ii) the Maturity Date by which time the New Notes fall due and are required to be repaid (no later than May 30, 2013),

(iii) the adverse impact of the financial terms of the New Financing upon the financial well being of the Corporation and the resulting increased likelihood of imminent insolvency proceedings, with all the attendant risks and costs therein,

(iv) the absence of appropriate “fiduciary out” provisions in the New Financing and the inclusion therein of terms which are intended to have and which do have the effect of preventing arms length lenders from making any alternative financing proposals for the potential benefit of the Corporation and its stakeholders,

(v) the absence of appropriate provisions to ensure that the Senior Note Holders’ rights and interests and powers in relation to the collateral held for their Senior Notes are not prejudiced or compromised,

(vi) the provisions of the NPA which purport to impose secrecy over the terms of the New Financing, and,

(vii) those terms of the Plan required by the New Financing (as yet unknown to the Applicant) which provide additional fees, benefits, advantages and rights to the holders of the New Notes, which were negotiated secretly and which were not and are not available to the minority of the Senior Noteholders.

Notwithstanding the foregoing the Trustee assisted and participated in the implementation of the New Financing by signing the NPA, the Supplemental Indenture and the Collateral Agency Agreement, whereby it agreed to become the Collateral Agent for the New Noteholders, on terms and for compensation currently unknown to the Applicant.

(5) With respect to paragraph (oo)(5) herein, by assisting in the implementation of the New Financing and by accepting the appointment as Collateral Agent for the New Noteholders and signing the Collateral Agency agreement referred to in the NPA, the Trustee acted in its own self interests, including its financial interest. This conduct gives rise to an actual and prospective conflict of interest and impairs and undermines the duties owed by the Trustee to *all* of the Senior Noteholders under the Indenture.

(6) With respect to paragraph (oo)(6) herein the Trustee (i) agreed or acquiesced in secrecy provisions that favor one group of the Senior Noteholders (ii) agreed to or acquiesced in the issuance of the Press release, the contents of which were materially false and misleading, and, (iii) failed or refused to respond to the Applicant's reasonable requests for information.

~~(ccc) The Trustee is liable for any damages sustained by the Applicant which, directly or indirectly, are caused or contributed to by the aforementioned breaches.~~

- (p) In addition to the conflicts of interest referred to above, the Applicant believes an undisclosed number of the holders of Senior Notes who approved the Supplemental Indenture under section 9.02 of the Senior Indenture had conflicts of interest. The Press Release indicated that certain debt holders of the Corporation will have the right to subscribe under the New Financing. Without counting such conflicted holders, there would have been insufficient aggregate principal of Senior Notes to approve the Supplemental Indenture under section 9.02 of the Senior Indenture. By voting to authorize an amendment to allow the New Financing, in circumstances where such Senior Noteholders so voting derive benefits under the New Financing, they have purported to use powers under the Senior Indenture in a manner that prejudices other Senior Noteholders. As of April 19, 2013 the Respondents have continued to refuse to identify the Unknown Purchasers who have chosen, through counsel, to refer to themselves as the "Ad Hoc Committee of Noteholders". Catalyst is reviewing the information in its possession to ascertain the entity of the Unknown Purchasers, which Catalyst believes include Marrett Asset Management Inc. and C.I. Investments or Funds or entities related thereto. Catalyst reserves the right to amend the Title of Proceedings herein once further information regarding the identity of the Unknown Purchasers and the persons responsible for the actions referred to herein has been ascertained.
- (pp) As a result of certain filings made by the Corporation under the CBCA, Catalyst has ascertained that Marret Asset Management Inc., CI Investments Inc., Guardian Capital LP, and GCIC Ltd. (collectively, the "Purchasers") participated in the New Financing.

By entering into the transactions and agreements referred to herein, the ~~Unknown~~ Purchasers have wrongfully caused, contributed to or induced the acts of oppression complained of herein, and are parties to and have improperly benefited from those acts. ~~The Unknown Purchasers are liable to Catalyst for any damages resulting from such acts.~~

- (q) The Applicant had and has reasonable and legitimate expectations that, *inter alia*:
- (1) that as and when any new financings permitted under the Senior Indenture were entered into by Mobilicity, they would be on terms consistent with usual commercial terms and practices;
 - (2) in any subsequent financing, so-called subordinate security holders would not be placed in a position of *de facto*, economic/commercial control over the affairs of Mobilicity, whether as a result of the early maturity date of the debt instruments held by such persons, their rights of enforcement, their ability to dictate by agreement the terms of corporate restructuring and perspective Debtor-In-Possession financings, or otherwise;
 - (3) that as and when any Amendments were made to the Senior Indenture, the Senior Noteholders would immediately be provided with sufficient information and documentation to understand and analyze the effects and implications of same, in relation to both their strict legal rights and their economic interests;
 - (4) that as and when any Amendments were made to the Senior Indenture, the effects of same and any transactions they enabled would not adversely affect the economic or legal interests of the Senior Noteholders in any way;

- (5) that neither Mobilicity nor the Trustee would tolerate a situation where some of the Senior Noteholders had informational advantages over other Senior Noteholders in relation to the New Financing, the Amendments to the Senior Indenture or otherwise in relation to the affairs of the Corporation; and
- (6) that the Trustee would be not placed in any conflict or potential conflict of interest position in relation to the fulfillment of its duties and exercise of its powers under the Senior Indenture. In this regard, while Section 7.03 of the Senior Indenture permits the Trustee to enter into other business activities with the Corporation, conflicts are not permitted. In this case, the Trustee's appointment as Collateral Agent in relation to the Secured Lien Notes creates further duties and responsibilities which may well be adverse to the interests of the Senior Noteholders.
- (r) Based on the information available to date, the conduct of the Corporation in relation to the matters referred to herein has been oppressive. In particular, the purported Amendment to the Senior Indenture and the Security Agreement; the terms of the New Financing; the delayed, incomplete and inaccurate public disclosure in relation to the New Financing; the inadequate and incomplete disclosure made to the Senior Noteholders; and the failure of the Corporation to respond reasonably to the Applicant's requests for documentation and information, are unfairly prejudicial and unfairly disregard the interests of the Applicant.
- (s) The Negative Pledge contained in paragraph 4(1)(c) of the Security Agreement applicable to the Senior Notes, as it existed prior to February 6, 2013, has been breached

by the issuance of the Second Lien Notes in the amount of \$23,500,000.00. Further breaches are anticipated by reason of the issuance of a further \$20,000,000.00 of Second Lien Notes, but the redactions to the NPA maintained by the Corporation do not disclose the exact timing of the prospective breaches.

- (t) The Corporation is a corporation governed by the *Ontario Business Corporations Act*, R.S.O. 1990, c. B.16, as amended (the “OBCA”). The Applicant relies on section 248 of the OBCA.

Exhibit “Q”

Case Name:

8440522 Canada Inc. (Re)

**IN THE MATTER OF an Application under Section 192 of The
Canada Business Corporations Act, R.S.C. 1985, c. C-44, as
amended and Rules 14.05(2) And 14.05(3) of The Rules of Civil
Procedure**

**AND IN THE MATTER OF a Proposed Arrangement of 8440522 Canada
Inc. and involving Data & Audio-Visual Enterprises Holdings
Inc., Data & Audio-Visual Enterprises Wireless Inc. and
Data & Audio-Visual Enterprises Leasing Inc.**

[2013] O.J. No. 2109

2013 ONSC 2509

Court File Nos. CV-13-10080-00CL and CV-13-10081-00CL

Ontario Superior Court of Justice

H.J. Wilton-Siegel J.

Heard: April 26, 2013.

Judgment: May 1, 2013.

(74 paras.)

Bankruptcy and insolvency law -- Companies' Creditors' arrangement Act (CCAA matters) -- Compromises and arrangements -- Proposals -- Application by Canada Inc. for two interim orders with respect to two plans of arrangement allowed -- Applicant was part of a group of Canadian wireless carriers, Mobilicity Group --- Applicant sought approval of Acquisition Plan and Recapitalization Plan -- Plans were mutually exclusive, but were being pursued in parallel -- Proposed Plans satisfied statutory requirements -- Each Plan was an "arrangement" -- Applicant satisfied solvency requirement with respect to both Plans -- Due to the complexity of the Plans, implementation of the transactions and payments was accomplished far more efficiently by means of a plan of arrangement.

Application by Canada Inc. for two interim orders with respect to two plans of arrangement. The applicant was part of a group of Canadian wireless carriers, the Mobilicity Group. The applicant sought approval at proposed meetings of the Voting Security holders of a plan of arrangement based on an agreement with a third party for the acquisition of the Mobilicity Group, the Acquisition Plan, and a plan for the recapitalization of the Mobilicity Group based on a \$75 million financing, the Recapitalization Plan. These Plans were mutually exclusive, but were being pursued in parallel at the present time. The Acquisition Plan contemplated the repayment of the outstanding First Lien Notes and the Second Lien Notes. Any remaining proceeds after the above payments were made would be distributed to holders of the Unsecured Debt in satisfaction of their claims in accordance with their priorities, subject to payment of \$7 million to the holders of the Second Lien Notes in consideration for having committed to provide the Backstop Financing. The Recapitalization

Plan contemplated the subscription by existing debt holders of the Mobilicity Group of New Second Lien Notes in the aggregate principal amount of \$75 million. The Recapitalization Plan also contemplated that the Unsecured Senior Notes and the Convertible Notes would be satisfied by the issuance of new common shares, preferred shares and warrants, depending upon the securities being satisfied. The Catalyst Capital Group Inc. owned First Lien Notes having an aggregate principal amount in excess of 25 per cent of the aggregate outstanding principal amount of such Notes. Catalyst had commenced an oppression action against the Mobilicity Group and the purchasers of the Second Lien Notes, alleging that the transactions contemplated by the Note Purchase Agreement were unfairly prejudicial or oppressive to the holders of the First Lien Notes who were not participating in the transaction.

HELD: Application allowed. The applicant acted in good faith in seeking approval of an interim order for a plan of arrangement. The proposed Plans of arrangement satisfied the applicable statutory requirements. Each of the Plans of Arrangement was an "arrangement" within the meaning of s. 192 of the Canada Business Corporations Act. The applicant had satisfied the solvency requirement with respect to both Plans. Due to the complexity of the Plans, it was not practicable for the Mobilicity Group to effect the complex and multi-step transactions contemplated by the Plans of Arrangement without application to the Court. In particular, each of the Plans set out an extensive list of 'Effective Date Transactions' which must be sequenced in a particular manner for tax and other purposes. Implementation of these transactions and payments were accomplished far more efficiently by means of a plan of arrangement.

Statutes, Regulations and Rules Cited:

Business Corporations Act, R.S.O. 1990, c. B.16,

Canada Business Corporations Act, R.B.C. 1985, c. C-44, s. 192, s. 192(1), s. 192(3)

Counsel:

Orestes Pasparakis and Marc Kestenberg, for the Applicant, 8440522 Canada Inc.

Robert J. Chadwick, Fred Myers and Brendan O'Neill, for the Ad Hoc Committee of Noteholders.

David C. Moore and K. Jones, for The Catalyst Capital Group Inc.

Janice Wright, for Equity Financial Trust Co.

ENDORSEMENT

1 H.J. WILTON-SIEGEL J.:-- The Applicant, 8440522 Canada Inc. (the "Applicant"), moves in separate applications pursuant to section 192 of the *Canada Business Corporations Act*, R.B.C. 1985, c. C-44 (the "CBCA") for two interim orders with respect to two plans of arrangement (the "Plans of Arrangement") involving Data & Audio-Visual Enterprises Holdings Inc. ("Holdings"), Data & Audio-Visual Enterprises Wireless Inc. ("Wireless") and Data & Audio-Visual Enterprises Leasing Inc. ("Leasing", and collectively with the Applicant, the "Mobilicity Group" or "Mobilicity").

2 On April 26, 2013, I granted the two interim orders sought, subject to certain modifications described below (as so amended, the "Interim Orders"), indicating that written reasons would follow shortly. These are the reasons for that decision.

Background

The Parties

3 The Mobilicity Group is a Canadian wireless carrier which provides wireless telecommunication services in Toronto, Ottawa, Calgary, Edmonton and Vancouver. In addition to voice, text, data and long distance cellular services, the Mobilicity Group offers hardware handsets and accessories to its customers. The corporate structure of the Mobilicity Group is as follows.

4 Holdings is a private corporation incorporated under the *Business Corporations Act*, R.S.O. 1990, c. B.16 (the "OBCA"). The shareholding interest in Wireless described below constitutes its sole asset.

5 Wireless is a private corporation incorporated under the CBCA. Wireless is wholly-owned by Holdings and is the operating entity of the Mobilicity Group.

6 The Applicant is a private corporation incorporated under the CBCA and is wholly-owned by Wireless.

7 Leasing is a private corporation incorporated under the CBCA that is wholly-owned by Wireless. It holds the Mobilicity Group's network assets and has no active operations.

The Capital Structure of the Mobilicity Group

8 The relevant features of the capital structure of the Mobilicity Group are as follows.

Equity

9 The authorized capital of Holdings consists of: (1) common shares, of which 3,330,141 common shares are held by Data & Audio-Visual Enterprises Investments Inc. ("Investments") and 1,655,070 common shares are held by QCP CW S.A.R.L. ("Quadrangle"); and (2) non-voting Class B shares, convertible into common shares on a one-for-one basis, of which 20,204,790 shares are outstanding and held by Quadrangle. As a result, Investments holds approximately 13.2% of the equity and 66.7% of the voting interest in Holdings, and Quadrangle holds approximately 86.8% of the equity and 33.3% of the voting interest in Holdings.

Debt

Holdings

10 Holdings has issued unsecured senior notes in the aggregate principal amount of \$95 million (the "Unsecured Senior Notes"). The Unsecured Senior Notes were issued pursuant to a trust indenture dated April 29, 2011, and mature on September 25, 2018. Interest is capitalized under the terms of the Unsecured Senior Notes. At the date hereof, the aggregate amount outstanding is approximately \$147.2 million.

11 Holdings has also issued unsecured pari passu notes (the "Unsecured Pari Passu Notes") and unsecured subordinated notes (the "Unsecured Subordinated Notes"), of which the aggregate principal amount outstanding at March 31, 2013 was approximately \$85.1 million and approximately \$37.2 million, respectively. The Unsecured Pari Passu Notes and the Unsecured Subordinated Notes (collectively, the "Convertible Notes") are held by Quadrangle. The Unsecured Senior Notes and the Convertible Notes are herein collectively referred to as the "Unsecured Debt" and the holders of the First Lien Notes and the holders of the Unsecured Debt are collectively referred to as the "Voting Securityholders".

Wireless

12 Wireless has issued 9.5% first lien senior secured notes in the aggregate principal amount of \$195 million (the "First Lien Notes"). The First Lien Notes were issued pursuant to a trust indenture dated April 29, 2011 (the "First Lien Note Trust Indenture") and mature on April 29, 2018. The First Lien Notes are guaranteed by Holdings and Leasing. To secure the First Lien Notes, each of Wireless, Holdings and Leasing have entered into general security agreements respecting their assets in favour of the trustee under the First Lien Note Trust Indenture.

13 Wireless has also authorized the issuance of 15.5% senior secured notes in the aggregate amount of \$43.25 million (the "Second Lien Notes"), of which the principal amount of \$33.25 million of Second Lien Notes are currently outstanding. The Second Lien Notes were issued pursuant to a note purchase, guarantee and back-stop agreement dated February 6, 2013 (the "Note Purchase Agreement"), which contemplated the issue of the Second Lien Notes in three tranches up to a total of \$35 million and the payment of a funding fee, in the amount of \$8.25 million, to be satisfied by the issue of additional Second Lien Notes at the time of the issue of the first tranche. It is expected that Mobilicity will draw down the third and final tranche prior to the proposed meetings of the Voting Securityholders (as defined below). The Second Lien Notes mature on May 30, 2013. The Second Lien Notes are secured by a second-priority lien on the assets of Mobilicity Group, and are expressed to be subordinated and postponed to payment of the First Lien Notes.

14 The Second Lien Notes were issued to a subset of the holders of the First Lien Notes and the Unsecured Senior Notes. Pursuant to the Note Purchase Agreement, the holders of the Second Lien Notes agreed to backstop a further debt offering of new second lien notes (the "New Second Lien Notes") in the aggregate principal amount of \$75 million in connection with the Recapitalization Plan (described below), if it proceeds, which financing would be used to pay out the Second Lien Notes (which mature on May 30, 2013) and provide further funds to be used for corporate purposes (the "Backstop Financing").

The Proposed Plans of Arrangement

15 A novel feature of the relief sought on these applications is that the Applicant seeks approval at proposed meetings of the Voting Securityholders of two possible plans of arrangement - a plan of arrangement based on an agreement with a third party for the acquisition of the Mobilicity Group referred to as the "Acquisition Plan", and a plan for the recapitalization of the Mobilicity Group based on a \$75 million financing, which is supported by the Backstop Financing, referred to as the "Recapitalization Plan" (collectively, the "Plans" or the "Plans of Arrangement"). These Plans are mutually exclusive, but are being pursued in parallel at the present time. The decision regarding which Plan will proceed will depend upon whether an agreement is reached with a third party for the acquisition of the Mobilicity Group prior to the meeting of the Voting Securityholders. The following is a brief summary of the salient provisions of the two Plans.

The Acquisition Plan

16 The Acquisition Plan contemplates the repayment of the outstanding First Lien Notes and the Second Lien Notes. Any remaining proceeds after the above payments are made would be distributed to holders of the Unsecured Debt in satisfaction of their claims in accordance with their priorities, subject to payment of \$7 million to the holders of the Second Lien Notes in consideration for having committed to provide the Backstop Financing.

17 Although Mobilicity has indicated that its preference is for implementation of the Acquisition Plan, it has not reached a binding agreement with any purchaser for the sale of the Mobilicity Group despite extensive marketing efforts to date. If an acquisition cannot be completed prior to the proposed meeting of the Voting Securityholders, the Mobilicity Group may adjourn the meeting to be convened to approve the Acquisition Plan and proceed with the meeting to be convened to approve the Recapitalization Plan.

The Recapitalization Plan

18 The Recapitalization Plan contemplates the subscription by existing debt holders of the Mobilicity Group of New Second Lien Notes in the aggregate principal amount of \$75 million. The proceeds of the New Second Lien Notes will be used to repay the Second Lien Notes issued by Wireless on February 6, 2013, with the remainder to be used for general corporate purposes. Those parties who subscribe for the New Second Lien Notes will also have the right to exchange a portion of their existing debt securities for additional New Second Lien Notes. The offering of New Second Lien Notes is backstopped pursuant to the Backstop Financing arrangements in the Note Purchase Agreement. The Recapitalization Plan also contemplates that the Unsecured Senior Notes and the Convertible Notes will be satisfied by the issuance of new common shares, preferred shares and warrants, depending upon the securities being satisfied.

Voting Arrangements Under the Plans

19 Under both Plans of Arrangement, the holders of the First Lien Notes vote as a single class and the holders of the Unsecured Debt vote collectively as a separate class. The requisite majority for approval by each class under both Plans of Arrangement is 66 2/3% of the outstanding dollar value for each class of those holders at the meetings in respect of the Plans. The holders of the Second Lien Notes do not have a vote under either of the Plans of Arrangement, as it is proposed that they will be paid out under each of the Plans of Arrangement.

20 The following debtholders have signed support agreements in respect of each of the Plans of Arrangement: (1) holders accounting for 67% of the principal amount outstanding of the First Lien Notes; and (2) holders accounting for 94% of the principal amount outstanding of the Unsecured Senior Notes. In addition, Quadrangle has entered into an amended and restated support agreement dated April 29, 2011 with Equity Financial Trust Company, in its capacity as trustee for the holders of the Unsecured Senior Notes (the "Support Agreement"). The Court has been advised that the effect of the Support Agreement in the present circumstances is that Quadrangle is committed to vote for the Acquisition Plan and the Recapitalization Plan, in its capacity as the holder of the Convertible Notes.

21 Neither of the Plans contemplates a vote by shareholders to approve the Acquisition Plan or the Recapitalization Plan. Mobilicity's board of directors has concluded that the price to be achieved in any potential sale of the Mobilicity Group would not be sufficient to provide any residual value to the shareholders after satisfaction of all prior debt claims.

The Applicant

22 It is contemplated that the Applicant will be amalgamated with another member of the Mobilicity Group under each of the Plans, and that the amalgamated entity will be the issuer of all of the new securities to be issued under the

Recapitalization Plan. As the Applicant has no material liabilities, either directly or under any guarantees, it takes the position that it is solvent for purposes of section 192 of the CBCA.

The Financial Status of the Mobilicity Group

23 The total assets and liabilities of the Mobilicity Group as of December 31, 2012 were approximately \$387.5 million and \$418 million, respectively, according to the audited financial statements. The Mobilicity Group's business generates revenue of approximately \$6 to \$7 million per month. For the fiscal quarter ended December 31, 2012, the cost of maintaining the Mobilicity Group's network and paying distributors and other service partners exceeded its revenue and financing proceeds by approximately \$12 million prior to financing costs.

24 Given its financial status, the Mobilicity Group has concluded that it needs to either reach an agreement for the sale of its business to a purchaser who is in a position to finance its operations going forward or to restructure its capital and obtain additional financing to advance its business. These two possibilities are reflected in the Acquisition Plan and the Recapitalization Plan, respectively.

25 The Mobilicity Group has engaged financial advisors in an effort to raise additional financing and/or pursue strategic alternatives, including the sale of its business. The Second Lien Note financing arrangements agreed to in the Note Purchase Agreement were put in place to provide short-term financing to Mobilicity to enable it to continue its operations while it pursues these efforts.

The Catalyst Oppression Application

26 The Catalyst Capital Group Inc. ("Catalyst") owns First Lien Notes having an aggregate principal amount in excess of 25% of the aggregate outstanding principal amount of such Notes.

27 Catalyst has commenced an oppression action under the OBCA against the Mobilicity Group and the purchasers of the Second Lien Notes, among others, alleging that the transactions contemplated by the Note Purchase Agreement are unfairly prejudicial or oppressive to the holders of the First Lien Notes who are not participating in the transactions (the "Catalyst Oppression Application"). Catalyst had previously proposed its own reorganization plan to the Mobilicity Group, which was rejected in favour of the transactions contemplated by the Note Purchase Agreement.

28 In essence, there is an ongoing dispute between Catalyst, on the one hand, and the holders of the Second Lien Notes, supported by other holders of First Lien Notes and Unsecured Senior Notes, on the other. The latter group is also apparently supported by the holder of the Convertible Notes, Quadrangle, in accordance with the terms of the Support Agreement as described above. This is a dispute regarding competing visions for addressing the current financial needs and prospects of the Mobilicity Group.

The Interim Orders Sought on these Applications

29 As mentioned, the Applicant is seeking interim orders that Holdings be permitted to convene and conduct meetings (the "Meetings") of the registered holders of the First Lien Notes of Wireless and of the registered holders of the Unsecured Senior Notes and the Convertible Notes of Holdings, being collectively, the Voting Securityholders, on May 21, 2013 to consider and, if determined advisable, to pass, with or without variation, resolutions adopting and approving either the Acquisition Plan or the Recapitalization Plan.

30 The terms of the proposed interim orders sought on the motions before this Court are generally consistent with the Commercial List's Model Interim Order, with six notable exceptions as follows:

- (a) the interim orders do not provide dissent rights to the shareholders of Holdings;
- (b) there are limitations on the rights of certain parties described below to terminate, accelerate, amend or declare in default any contract, agreement, instrument or other document involving the Mobilicity Group as a result of the filing of the applications or the taking of steps in furtherance thereof;
- (c) the Applicant sought a provision consolidating the Catalyst Oppression Application with these applications (this matter was adjourned in the course of the hearing of these applications);
- (d) the Applicant seeks a provision that would count votes cast at the Meetings as votes cast in respect of an "Alternative CCAA Plan", if Mobilicity were to implement the transac-

- tions contemplated by the Plans by way of a plan of arrangement under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA");
- (e) the interim orders provide for early consent deadlines, which relate to an option to receive additional consideration under each Plan in the event a stakeholder provides a commitment to support the Plans by a certain date, and further provides for election dates in respect of the Recapitalization Plan, which relate to participation in the attendant \$75 million financing; and
 - (f) the interim order respecting the Recapitalization Plan includes a provision for a "Senior Noteholder Payment Election" prior to the meetings which, if exercised, among other things, would terminate the right of the holders of the First Lien Notes to vote at the meeting to approve the Acquisition Plan as Voting Securityholders and provide Mobilicity with the right to deliver Wireless to a purchaser free and clear of the claims and security in respect of the First Lien Notes.

The Position of Catalyst

31 Catalyst did not expressly oppose the relief sought on the hearing of these applications. Instead, it sought an adjournment until sometime during the week of April 29, 2013 in order to consider what, if any, objections it wishes to make to the form of the interim orders.

32 Catalyst did not receive the application records for these applications until 1:00 a.m. on April 26, on which date the Court heard the applications commencing at 2:00 p.m. Catalyst says this was the result of a deliberate decision on the part of Mobilicity, which has been working on the Plans since the announcement of the transactions contemplated by the Note Purchase Agreement on February 12, 2013.

33 Catalyst argues that it is unfair to proceed without being given an adequate opportunity to consider the proposed Plans and to make submissions regarding the fairness of the process. Catalyst also raised the following six specific issues on which it did not seek a determination, but which it argued justified a more complete and informed consideration at a later date.

34 First, Catalyst argues that it is an open question whether the Applicant is solvent given the financial position of Mobilicity described above. This is addressed below.

35 Second, Catalyst objects to treating all of the holders of the First Lien Notes in the same class for voting purposes under each of the Plans. It argues that, at the very least, the holders of First Lien Notes who are parties to the Note Purchase Agreement, and therefore were entitled to their *pro rata* share of the \$8.25 million funding fee for participating in the Second Lien Note financing, have a different interest from the holders who did not participate in that transaction and should therefore be excluded from the class of holders of First Lien Notes and treated as a separate class.

36 Third, Catalyst objects to certain provisions of the interim orders which require that a stipulated majority of the holders of First Lien Notes who currently support the Plans must consent to any amendments to the Plans or meeting materials. It suggests this constitutes an offensive delegation of powers to these parties.

37 Fourth, Catalyst suggests that the provisions of the interim orders respecting the Recapitalization Plan dealing with the Senior Noteholder Payment Election are contrary to the terms of the First Lien Note Trust Indenture and therefore constitute an unauthorized amendment. As I indicated in chambers, I do not agree with this interpretation. However, in any event, the Interim Orders now include language in the "paramountcy" paragraph, to which Catalyst also objects as having an uncertain consequence, indicating that nothing in the Interim Orders is intended to affect the substantive rights of any holders of First Lien Notes. This provision is understood to apply, among other things, in respect of the operation of the Senior Noteholder Payment Election.

38 Fifth, Catalyst objects to the "no-default" provision in the Interim Orders saying, correctly, that this affects substantive rights and argues that the Court ought not to be involved in making such an order.

39 Sixth, Catalyst suggests that there is no reason at this time for the provision in the Interim Orders dealing with the counting of votes in the event Mobilicity decides to implement an Alternative CCAA Plan under the CCAA.

Applicable Law

40 The purpose of Interim Orders such as those requested is "to set the wheels in motion for the application process relating to the arrangement and to establish the parameters for the holding of shareholder meetings to consider approval

of the arrangement in accordance with the statute": see *Re First Marathon Inc.*, [1999] O.J. No. 2805 at para. 9, (Ont. S.C.J.), Blair J. (as he then was) [*First Marathon*]. I note that in *First Marathon*, Blair J. was asked to consider the adequacy of the disclosure in the management information circular that was to be distributed to the security holders for its sufficiency, which is not an issue on these applications.

41 In *Re 45133541 Canada inc.*, [2009] Q.J. No. 18337 (Qc. Sup. Ct.) [45133541], Gascon, J.C.S. (as he then was) commented that, for the purposes of an interim order of the nature sought on these applications, the Court's analysis is limited to a consideration of whether the proposed plan of arrangement is put forward in good faith and whether the proposed plan complies with the statutory requirements of the CBCA. I agree with this conclusion, which necessarily remits determination of whether the proposed plan of arrangement is "fair and reasonable" to the hearing on the final order. This is particularly appropriate in the present case where it remains to be determined which Plan of Arrangement will be put to the Voting Securityholders for approval.

42 I note, however, that nothing prevents an affected stakeholder from raising issues of a procedural nature prior to the proposed Meetings of the Voting Securityholders in accordance with the provisions of the "come back" provisions of the Interim Orders.

Analysis and Conclusions

43 I propose to deal first with the Catalyst request for an adjournment. I will then address the requirements for approval of an interim order under section 192 of the CBCA.

The Catalyst Request for an Adjournment

44 The request of Catalyst for an adjournment of this hearing was denied for the following reasons.

45 The issues addressed at this stage of an application under section 192 of the CBCA are essentially procedural rather than substantive. In seeking an interim order, an applicant bears the ultimate responsibility for ensuring that the form of interim order satisfies the applicable statutory and contractual procedural requirements. While this is particularly true when an interim order is sought on an *ex parte* basis, it remains the case even if one or more stakeholders raise objections at the time the interim order is sought. Accordingly, a party affected by an interim order has the right to move to vary the order prior to the meeting to be convened to approve the proposed plan of arrangement if it can establish that the Interim Orders do not meet the two criteria addressed by courts at this stage of a plan of arrangement. Indeed, if such a party objects to any procedural aspect of the proposed stakeholder meetings, in my opinion it must raise its objection prior to the meeting of the stakeholders.

46 In the present circumstances, it is undeniable that Catalyst has not had sufficient time to consider its position on the procedural aspects of the Plans and the Meetings addressed in the Interim Orders. However, I am not satisfied that Catalyst will suffer any material prejudice if the Interim Orders are granted, given that Catalyst remains entitled to bring a motion to vary the Interim Orders if it so chooses. Moreover, with the exception of the issue of insolvency, the Court has made no determination on the issues raised by Catalyst, apart from requiring an amendment to the paramountcy provision to clarify that such provision does not affect the substantive rights of the stakeholders in order to address the concerns raised by Catalyst. While the Court has addressed the issue of solvency, I note that Catalyst refrained from arguing directly that Mobilicity was insolvent despite ample knowledge of its current financial position, and that it remains open to Catalyst to move to vary the Court's determination on this issue on the basis of other facts or changed circumstances.

The Requirements for an Interim Order

Demonstration of Good Faith

47 The first requirement for approval of an interim order for a plan of arrangement under section 192 of the CBCA is that the applicant demonstrate that it is acting in good faith in putting forward the proposed plan. I have no difficulty in concluding that the Applicant is acting in good faith in the present circumstances.

48 The Plans are being proposed to further a valid business purpose, namely the continuity of the business of Mobilicity and thereby the preservation of the jobs of its employees and the continuation of its existing relationships with its suppliers and subscribers. In the absence of an Acquisition Plan, the Recapitalization Plan is intended to restructure the debt of the Mobilicity Group to provide it with a capital structure that will allow it to survive and seek to advance its operations.

Compliance with Applicable Statutory Requirements

49 The second requirement for approval of an interim order for a plan of arrangement under section 192 of the CBCA is demonstration that the proposed plan of arrangement satisfies the applicable statutory requirements. At the stage of seeking an interim order, the Applicant must establish that:

1. the proposed arrangement constitutes an "arrangement" as defined under subsection 192(1) of the CBCA;
2. the applicant is not "insolvent" as defined in subsections 192(2) (a) and (b) of the CBCA;
3. it is not "practicable" for the applicant to effect a fundamental change in the nature of the proposed plan of arrangement under any other provision of the CBCA; and
4. the applicant gave notice of the application to the Director appointed under section 260 of the CBCA (the "Director").

See: *Re St. Lawrence & Hudson Railway Co.*, [1998] 82 A.C.W.S. (3d) 895 at para. 13, [1998] O.J. No. 3934, (Ont. C.J. Gen. Div.) per Blair J. (as he then was) [*St. Lawrence*]. I will address each of these matters in turn.

An Arrangement Under Section 192 of the CBCA

50 I do not think it is disputed that, under existing jurisprudence, a plan of arrangement can relate to the compromise of debt. This is also accepted in the Policy Statement of the Director.

51 I have no difficulty in finding that each of the Plans of Arrangement is an "arrangements" within the meaning of section 192 of the CBCA, as they involve;

- (a) an amalgamation of two or more corporations;
- (b) in the case of the Acquisition Plan, a transfer of all or substantially all the property of a corporation to another body corporate in exchange for property, money or securities of the body corporate;
- (c) in the case of each Plan, an exchange of securities of a corporation for property, money or other securities of the corporation or property, money or securities of another body corporate; and
- (d) a combination of the foregoing.

The Solvency Requirement

52 The Applicant submits that it satisfies the solvency requirement of section 192 in two ways: (1) by virtue of the Applicant's solvency; and (2) on the basis that the Mobilicity Group will be solvent at the time of the final order.

53 In making these submissions, the Applicant relies in part on the statement of Blair J. in para. 15 of *St. Lawrence* to the effect that section 192 requires only that at least one of the corporate applicants under the proposed plan of arrangement not be insolvent as defined under subsection 192(2) of the CBCA. In addition, the Applicant points to the Policy Statement of the Director, which recognizes that plans of arrangement may proceed where the applicant is insolvent at the time of the interim order but will be solvent at the time of the final order.

54 As mentioned, Catalyst has suggested that there is reason to question the solvency of Mobilicity and therefore the entitlement of the Applicant to use section 192 of the CBCA. Catalyst's principal submission was, however, that the Court should defer a determination on this issue, and the other issues raised by Catalyst, until a hearing during the week of April 29, 2013. For the reasons set out below, I do not consider this to be appropriate. Accordingly, the Court must address this issue at this time. However, in doing so, the Court is relying entirely on the limited information before it, recognizing that additional information or changed circumstances after the date of the hearing may require a reconsideration of this issue.

55 Based on the information before the Court, I conclude that the Applicant has satisfied the solvency requirement of section 192 on the following basis, which addresses the two Plans separately.

56 In the event that the Acquisition Plan proceeds, I think it necessarily follows that Mobilicity will satisfy the solvency requirement. The only viable purchaser of the Mobilicity Group is a purchaser that is sufficiently financed that it will be able to fund repayment of the First Lien Notes and the Second Lien Notes as well as the continuing operations of Mobilicity including servicing its Unsecured Debt. By definition, such a purchaser would need to be a solvent corpora-

tion. In such circumstances, Courts have had no difficulty finding that the solvency requirement of section 192 has been satisfied: see, for example, *Re 45133541* at paras. 76 and 77.

57 In the event that the Recapitalization Plan proceeds, the evidence before the Court upon which the Court is relying indicates that the Mobilicity Group would be solvent after implementation of the Plan. The principal effect of the Recapitalization Plan is to convert the Unsecured Debt to equity and to provide sufficient additional working capital upon the completion of the \$75 million financing to permit Mobilicity to continue operations for a further, although not indefinite, period of time.

58 In *45133541*, Gascon J.S.C. concluded that a proposed plan that would, when implemented, result in a solvent entity satisfied the solvency requirement on the basis that the applicant could be considered to be solvent at the time of the final order, even if it was insolvent at the time of the interim order. If it were necessary to do so, I would reach a similar conclusion in the present circumstances as I consider the facts in the present applications to be indistinguishable on this issue from those in *45133541*.

59 However, the facts in the present circumstances are stronger than those in *45133541* in one respect which permits the Court to conclude that the Mobilicity Group is solvent at the present time notwithstanding its recent financial history as described above. In the present case, the requisite majorities of the two classes of Voting Securityholders have already confirmed their support of the Recapitalization Plan, and the \$75 million financing is assured by virtue of the Backstop Financing. In these circumstances, the Court can take the implementation of the Recapitalization Plan as a given if there is no Acquisition Plan to be put forward for approval. On the basis that such Plan when implemented would result in a restoration of the solvency of Mobilicity for a period of time, I think that the Court can rely on the existing commitments to implement this Plan, if required, as the basis for a determination that the Mobilicity Group is solvent for the purposes of section 192 of the CBCA.

The Impracticability Test

60 Subsection 192(3) of the CBCA provides that a corporation may apply to a court for an order approving an arrangement where it is not "practicable" for the corporation to effect a fundamental change in the nature of an arrangement under any other provision of the CBCA.

61 The impracticability test is interpreted broadly and considered from a practical business point of view. Courts have confirmed that the threshold of impracticability is relatively low. What is required is that the proposed arrangement be difficult to put into practice under other provisions of the CBCA: see, for example *St. Lawrence* at para. 18 and *45133541* at paras. 80-81.

62 I also note that the Director has indicated that he is of the view that the test would be satisfied by demonstrating that it would be inconvenient or less advantageous to the corporation to proceed under other provisions of the CBCA, and presumably outside the CBCA, provided that section 192 is not used to subvert the procedural and substantive safeguards otherwise available to the stakeholders.

63 In the present case, I accept that, due to the complexity of the Plans, it is not practicable for the Mobilicity Group to effect the complex and multi-step transactions contemplated by the Plans of Arrangement without application to the Court. In particular, each of the Plans sets out an extensive list of 'Effective Date Transactions' which must be sequenced in a particular manner for tax and other purposes. Implementation of these transactions and payments is accomplished far more efficiently by means of a plan of arrangement. If implemented outside of a plan of arrangement, each of these transactions and payments would require separate corporate or contractual authorizations, extensive documentation giving effect to the particular conveyances, transfers, amalgamations, amendments and payments, and manual filings with corporate authorities that would need to be coordinated. In addition, the Applicant requires the provisions of section 192 of the CBCA in order to effect the releases contemplated in each Plan.

Notice to the Director Under the CBCA

64 The Applicant gave notice of the applications, together with copies of all supporting material, to the Director. The Director advised that he had determined that he did not need to appear or be heard on these applications.

65 However, the Director noted in his correspondence to the Applicants, without taking a position on the matter, that the stay of proceedings (which is understood to mean the "No-Default") clause addressed below is unusual in an arrangement that is not proceeding under the CCAA and that the scope of this provision extends beyond the parties who are affected by the proposed arrangement. This matter is dealt with in the following section.

The "No-Default" Clause

66 The Mobilicity Group intends to continue to conduct its business in the ordinary course during these proceedings, including making payments to creditors and suppliers in the ordinary course and in accordance with past practice. The Mobilicity Group sought a "no-default" clause in the Interim Orders to maintain the status quo during the short period while these proceedings are in progress for the following reasons.

67 Section 6.01(7) of the First Lien Note Trust Indenture provides for an event of default, among other things, in the event that Wireless "commences a voluntary case" "pursuant to or within the meaning of Bankruptcy Law". For this purpose, "Bankruptcy Law" is defined broadly to include "other laws concerning formal or informal moratoria of debt or compositions with creditors, and proceedings seeking reorganization, arrangement, or other relief of debtors". There is, therefore, a legitimate concern that commencement of these applications may give rise to an event of default under the First Lien Note Trust Indenture. In addition, similar, although not identical, provisions exist in the instruments governing the terms of the Unsecured Senior Notes, the Unsecured Pari Passu Notes and the Unsecured Subordinated Notes. More significantly, the Applicant says that the commencement of these applications may also give rise to a right of termination in favour of certain material suppliers, specifically Ericson Canada Inc., Research in Motion Limited, Ingram Micro Inc. and AMDOCS Canadian Managed Services Inc. (collectively, the "Material Suppliers").

68 The Applicant sought a provision in the Interim Orders providing that leave of the Court is required to assert any right of termination, acceleration, amendment or declaration of default in respect of any contract between the Mobilicity Group and any of the Material Suppliers and in respect of First Lien Notes or the Unsecured Debt (herein, the "No-Default Clause").

69 "No-default" provisions have been granted in similar circumstances in the past. In *45133541*, Gascon J.S.C. canvassed the law regarding similar provisions, finding as follows:

[102] The wording of Subsection 192(4) *CBCA* is similar to that of the shareholders oppression remedy found at Subsection 241(3). It suggests a broad statutory discretion for the Court to exercise its powers.

[103] Quebec courts have indeed adopted a liberal interpretation of Subsection 241(3) and confirmed that in light of its broad wording, the powers enumerated therein are not "limitative", but rather, modalities of the courts' general power to issue orders.

[104] In statutory interpretation, it is well known that the words of an Act are to be read in their entire context and in their grammatical and ordinary sense, harmoniously with the scheme and object of the Act and the intention of Parliament in relation to the Act.

[105] From that perspective, the words used by Parliament at Subsection 192(4) not only suggest a large discretion for the Court, but also one that should be reasonably exercised in furtherance of the object of the provision. Namely, to facilitate an arrangement and, at the very least, to allow for it to be subject to a meaningful approval process.

[106] In *Trizec*, Forsyth J. made the following observations on these broad powers under Subsection 192(4) and their exercise in respect of the rights enjoyed by secured creditors:

Subsection 4 of section 192 gives broad power to the Court with respect, inter alia, to interim orders. The power to restrain, for example, a secured creditor is not one of the specific powers delineated, and if it exists must be found in the general language which states, the Court "may make any interim or final order it thinks fit".

On consideration of the whole of the section and the purposes of same, I am satisfied that in appropriate circumstances, given that the arrangement might affect the rights of secured creditors, the power to restrain enforcement of security and thus attempt to preserve the status quo pending consideration of the arrangement by parties affected can be found in the broad general language of section 192(4)." [Emphasis added in the original]

[107] In that case, Subsection 192(4) was interpreted as allowing the Court to restrain creditors' rights by issuing, in addition to a no-default order, a stay of proceedings similar to the stay order requested from this Court.

[108] Interim Orders which prevent creditors from calling defaults under various credit agreements have also been rendered in the following cases dealing with arrangements under Section 192 CBA:

-*Call-Net* Interim Order, para. 48:

"THIS COURT ORDERS THAT no party, including without limitation the Trustee, shall have any rights to terminate, accelerate or treat as accelerated, amend or declare in default any contract or other agreement to which Call-Net is a party due to Arrangeco or Call-Net being a party to this proceeding or having made an application to this Court pursuant to section 192 of the CBA." *Call-Net* Interim Order, para. 48:

-*Tembec* Interim Order, para. 29:

"THIS COURT ORDERS THAT no person, including, without limitation any Noteholders or Indenture Trustees, shall have any rights to terminate, accelerate, amend or declare in default any contract or other agreement including, without limitation, the Indentures, to which any of the Applicants or Tembec Inc. are a party, due to the Applicants being a party to this proceeding, having made an application to this Court pursuant to section 192 of the CBA or having failed to make any interest or other payments during the period prior to such time as the within Arrangement is approved by the Court and implemented by the Applicants, without further order of this Court." [Emphasis added]

-*Telesystem* Interim Order, para. 35:

"DECLARES that the filing and presentation of the present Application, the issuance of the Interim Order, the filing of the Plan of Arrangement into the Court record and the passing of the Arrangement Resolution by the TIW Shareholders do not constitute an event of default pursuant to the Amended 7.00% Equity Subordinated Debenture Indenture, as amended (the 'Indenture')."

[109] These various decisions support a broad statutory discretion for the courts to issue orders in the context of Section 192 arrangements.

70 I am satisfied that the Court has the power under section 192 to issue a "no-default" order in appropriate circumstances, although I think this is a power that should only be used in special circumstances given that section 192 operates with respect to solvent corporations.

71 In the present circumstances, the provisions are directed toward a legitimate objective and are limited in operation to the only circumstances in which an event of default could create material difficulties for Mobilicity in its efforts to sell its business to a third party or to restructure. I note as well that, in view of the majorities already committed to supporting the proposed Plans, the holders of each of the Unsecured Senior Notes, the Unsecured *Pari Passu* Notes, the Unsecured Subordinated Notes and the First Lien Notes are in a position to waive any defaults that would arise as a result of these applications (the No-Default Clause also provides that the holders of the Second Lien Notes consent to such a provision in respect of such Notes).

72 In addition, and in any event, as the Interim Orders were essentially obtained on an *ex parte* basis, any affected party, including Catalyst, has the right under the Interim Orders to move to vary this provision of the Interim Orders. In these circumstances, I think it appropriate to grant the requested relief regarding the "No-Default" provisions in the Interim Orders at this time.

73 Accordingly, the Interim Orders approved by the Court included the No-Default Clause sought by the Applicant.

Conclusion

74 For the above reasons, the Interim Orders were granted in the forms attached to this Endorsement as Schedules A and B, which reflect amendments to the forms of interim order sought that have been agreed to by Catalyst regarding: (1) an addition to the paramountcy provision; and (2) an addition of a formal "come-back" provision.

H.J. WILTON-SIEGEL J.

* * * * *

"SCHEDULE "A"

Court File No. CV13-10081-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR. JUSTICE WILTON-SIEGEL

FRIDAY, THE 26TH DAY OF APRIL, 2013

IN THE MATTER OF AN APPLICATION UNDER SECTION 192 OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C. 1985, c. C-44, AS AMENDED, AND RULES 14.05(2) AND 14.05(3) OF THE RULES OF CIVIL PROCEDURE

AND IN THE MATTER OF A PROPOSED ARRANGEMENT OF 8440522 CANADA INC., AND INVOLVING DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

INTERIM ORDER
(Acquisition Plan)

THIS MOTION made by the Applicant, 8440522 Canada Inc. (the "Applicant") for an interim order for advice and directions pursuant to section 192 of the Canada Business Corporations Act, R.S.C. 1985, c. C-44, as amended (the "CBCA"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Notice of Application and the affidavit of William E. Aziz sworn April 24, 2013, (the "Aziz Affidavit"), including the Plan of Arrangement (the "Acquisition Plan"), which is attached as Schedule C to the draft notice of meeting and information circular (collectively, the "Information Circular"), which is attached as Exhibit B to the Aziz Affidavit and on hearing the submissions of counsel for the Applicant and the Initial Consenting Noteholders (as defined in the Acquisition Plan) and on being advised that the Director appointed under the CBCA (the "Director") does not consider it necessary to appear,

Definitions

THIS COURT ORDERS that all definitions used in this Interim Order shall have the meaning ascribed thereto in the Acquisition Plan or otherwise as specifically defined herein.

The Meeting

THIS COURT ORDERS that Data & Audio-Visual Enterprises Holdings Inc. ("Holdings") is permitted to call, hold and conduct a meeting (the "Meeting") of the registered holders of 9.5% first lien senior secured notes (the "First Lien Notes") of Data & Audio-Visual Enterprises Wireless Inc. ("Wireless"), registered holders of 15% senior unsecured debentures (the "Unsecured Senior Notes") of Holdings, registered holders of unsecured convertible debentures of Holdings ranking pari passu with the Unsecured Senior Notes (the "Unsecured Pari Passu Notes") and registered holders of unsecured convertible debentures of Holdings ranking subordinate to the Unsecured Senior Notes and the Unsecured Pari Passu Notes (the "Unsecured Subordinated Notes"; and together with the Unsecured Senior Notes and the Unsecured Pari Passu Notes, collectively, the "Unsecured Notes"; and collectively the registered holders of the Unsecured Notes and the registered holders of the First Lien Notes, the "Voting Securityholders") to be held at the offices of Norton Rose Canada LLP, Royal Bank Plaza, South Tower, 200 Bay Street, Suite 3800, Toronto, Ontario, M5J 2Z4 on May 21, 2013 at 10:30 a.m. to consider and, if determined advisable, pass, with or without variation, a resolution adopting and approving, with or without variation, the Acquisition Plan (collectively, the "Arrangement Resolution").

THIS COURT ORDERS that the Meeting shall be called, held and conducted in accordance with the CBCA, the Acquisition Plan, the Information Circular, and the articles and by-laws of the Applicant, subject to what may be provided hereafter and subject to any further order of this Court.

THIS COURT ORDERS that a member of the board of directors of Holdings, shall preside as the chair of the Meeting and, subject to this Order and any further order of the Court, shall decide all matters relating to the conduct of the Meeting.

THIS COURT ORDERS that the record date (the "Record Date") for determination of the Voting Securityholders entitled to notice of, and to vote at, the Meeting shall be April 25, 2013.

THIS COURT ORDERS that the only persons entitled to attend or speak at the Meeting shall be:

- registered holders of the First Lien Notes as at the Record Date, or their proxyholders;
- registered holders of the Unsecured Senior Notes as at the Record Date, or their proxyholders;
- registered holders of the Unsecured Pari Passu Notes as at the Record Date, or their proxyholders;
- registered holders of the Unsecured Subordinated Notes as at the Record Date, or their proxyholders;
- legal counsel and advisors of any of the foregoing;
- legal counsel to the Initial Consenting Noteholders;
- legal counsel to the Supporting First Lien Noteholders;
- the officers, directors, and legal counsel, of the Applicant, Holdings and Wireless;
- the Unsecured Senior Notes Indenture Trustee and its legal counsel;
- the First Lien Note Indenture Trustee and its legal counsel;
- the Director; and
- other persons who may receive the permission of the chair of the Meeting.

THIS COURT ORDERS that the Mobilicity Group may transact such other business at the Meeting as is contemplated in the Information Circular, or as may otherwise be properly before the Meeting.

Quorum

THIS COURT ORDERS that quorum at the Meeting shall be one registered holder of the First Lien Notes and two registered holders of any of the Unsecured Notes, present in person or by proxy at the opening of the Meeting who are entitled to vote at the Meeting.

Amendments to the Acquisition Plan

THIS COURT ORDERS that the Applicant is authorized to make, subject to: (i) the prior consent of the Requisite Majority of the Initial Consenting Noteholders (to the extent the amendment, restatement, modification or supplement described hereinafter may affect holders of the First Lien Notes, holders of the Unsecured Senior Notes, or the holders of the Existing Second Lien Notes); and (ii) paragraph 10 below, such amendments, restatements, modifications or supplements to the Acquisition Plan as it may determine without any additional notice to the Voting Securityholders, or others entitled to receive notice under paragraphs 13 and 14 hereof, and the Acquisition Plan, as so amended, modified, restated or supplemented shall be the Acquisition Plan to be submitted to the Voting Securityholders at the Meeting and shall be the subject of the Arrangement Resolution. Amendments, modifications, restatements or supplements may be made following the Meeting, but shall be subject to review and, if appropriate, further direction by this Court at the hearing for the final approval of the Acquisition Plan.

THIS COURT ORDERS that, if any amendments, modifications or supplements to the Acquisition Plan as referred to in paragraph 9, above, would, if disclosed, reasonably be expected to affect a Voting Securityholder's decision to vote for or against the Arrangement Resolution, notice of such amendment, modification or supplement shall be distributed by the Applicant to the Voting Securityholders by such method as the Applicant may determine is most practicable and expedient in the circumstances.

Amendments to the Information Circular

THIS COURT ORDERS that, subject to paragraph 16 below, the Applicant is authorized to make such amendments, revisions and/or supplements to the draft Information Circular as it may determine and the Information Circular, as so amended, revised and/or supplemented, shall be the Information Circular to be distributed in accordance with paragraphs 13 and 14.

Adjournments and Postponements

THIS COURT ORDERS that the Applicant, if it deems advisable, is specifically authorized to adjourn or postpone the Meeting on one or more occasions, without the necessity of first convening the Meeting or first obtaining any vote of the Voting Securityholders respecting the adjournment or postponement, and notice of any such adjournment or postponement shall be given by the Applicant by such method as the Applicant may determine is most practicable and expedient in the circumstances. This provision shall not limit the authority of the Chair of the Meeting in respect of adjournments and postponements.

Notice of Meeting

THIS COURT ORDERS that, in order to effect notice of the Meeting, the Applicant shall send the Information Circular (including this Interim Order), the notice of the Meeting and the forms of proxy, along with such amendments or additional documents as the Applicant may determine are necessary or desirable and are not inconsistent with the terms of this Interim Order (collectively, the "Meeting Materials"), to the following:

the Voting Securityholders at the close of business on the Record Date, at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting, by one or more of the following methods:

by pre-paid ordinary or first class mail at the addresses of the Voting Securityholders as they appear on the books and records of Holdings, or its registrar and transfer agent, at the close of business on the Record Date and if no address is shown therein, then the last address of the person known to the corporate secretary of Holdings;

by delivery, in person or by recognized courier service or inter-office mail, to the address specified in (i) above; or

by facsimile or electronic transmission to any Voting Securityholder, who is identified to the satisfaction of the Applicant, who requests such transmission in writing and, if required by the Applicant, who is prepared to pay the charges for such transmission;

the Unsecured Senior Note Indenture Trustee (as defined in the Information Circular) at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting;

the First Lien Note Indenture Trustee (as defined in the Information Circular) at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the meeting; and

the respective directors and auditors of Holdings, Wireless, Leasing and the Applicant and to the Director appointed under the CBCA, by delivery in person, by recognized courier service, by pre-paid ordinary or first class mail or, with the consent of the person, by facsimile or electronic transmission, at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting.

and that compliance with this paragraph shall constitute sufficient notice of the Meeting.

THIS COURT ORDERS that the Applicant is hereby directed to distribute the Notice of Application and the Information Circular (including this Interim Order), and any other communications or documents determined by the Applicant to be necessary or desirable (collectively, the "Court Materials") to the registered Existing Equity Holders of Holdings by any method permitted for notice to the Voting Securityholders as set forth in paragraph 13 above, concurrently with the distribution described in paragraph 13 of this Interim Order. Distribution to such persons shall be to their addresses as they appear on the books and records of Holdings at the close of business on the Record Date.

THIS COURT ORDERS that accidental failure or omission by the Applicant to give notice of the Meeting or to distribute the Meeting Materials or Court Materials to any person entitled by this Interim Order to receive notice, or any failure or omission to give such notice as a result of events beyond the reasonable control of the Applicant, or the non-receipt of such notice shall, subject to further order of this Court, not constitute a breach of this Interim Order nor shall it invalidate any resolution passed or proceedings taken at the Meeting. If any such failure or omission is brought to the attention of the Applicant, it shall use its best efforts to rectify it by the method and in the time most reasonably practicable in the circumstances.

THIS COURT ORDERS that the Applicant is hereby authorized to make, with the consent of the Requisite Majority of the Initial Consenting Noteholders, such amendments, revisions or supplements to the Meeting Materials and Court Materials (subject to paragraphs 9 and 10 in the case of any amendments, revisions or supplements to the Acquisition Plan), as the Applicant may determine in accordance with the terms of the Arrangement Agreement and the Acquisition Plan ("Additional Information"), and that notice of such Additional Information may, subject to paragraph 10, above, be distributed by press release, newspaper advertisement, pre-paid ordinary mail, or by the method most reasonably practicable and expedient in the circumstances, as determined by the Applicant.

Service

THIS COURT ORDERS that distribution of the Meeting Materials and Court Materials pursuant to paragraphs 13 and 14 of this Interim Order shall constitute notice of the Meeting and good and sufficient service of the within Application upon the persons described in paragraphs 13 and 14 and that those persons are bound by any orders made on the within Application. Further, no other form of service of the Meeting Materials or the Court Materials or any portion thereof need be made, or notice given or other material served in respect of these proceedings and/or the Meeting to such persons or to any other persons, except to the extent required by paragraph 10, above.

Solicitation and Revocation of Proxies

THIS COURT ORDERS that Holdings and the Applicant are authorized to use the proxies substantially in the form of the drafts accompanying the Information Circular, with such amendments and additional information as Holdings and the Applicant may determine are necessary or desirable, with the consent of the Requisite Majority of the Initial Consenting Noteholders, subject to the terms of the Arrangement Agreement and the Acquisition Plan. Holdings and the Applicant are authorized, at their expense, to solicit proxies, directly or through their officers, directors or employees, and through such agents or representatives as they may retain for that purpose, and by mail or such other forms of personal or electronic communication as they may determine. Holdings or the Applicant may waive, with the consent of the Requisite Majority of the Initial Consenting Noteholders, the time limits set out in the Information Circular for the deposit or revocation of proxies by Voting Securityholders, if Holdings or the Applicant deems it advisable to do so.

THIS COURT ORDERS that Voting Securityholders shall be entitled to revoke their proxies in accordance with section 148(4) of the CBCA (except as the procedures of that section are varied by this paragraph) provided that any instruments in writing delivered pursuant to s.148(4)(a)(i) of the CBCA: (a) may be deposited at the registered office of the Applicant or with the transfer agent of the Applicant as set out in the Information Circular; and (b) any such instruments must be received by the Applicant or its transfer agent not later than 5:00 p.m. two business days immediately preceding the Meeting (or any adjournment or postponement thereof).

Voting

THIS COURT ORDERS that the only persons entitled to vote in person or by proxy on the Arrangement Resolution, or such other business as may be properly brought before the Meeting, shall be registered holders as at the Record Date of:

the First Lien Notes (or their proxyholders);

the Unsecured Senior Notes (or their proxyholders);

the Unsecured Pari Passu Notes (or their proxyholders); and

the Unsecured Subordinated Notes (or their proxyholders).

Illegible votes, spoiled votes, defective votes and abstentions shall be deemed to be votes not cast. Proxies that are properly signed and dated but which do not contain voting instructions shall be voted in favour of the Arrangement Resolution.

THIS COURT ORDERS that votes shall be taken at the Meeting on the basis of one vote for each dollar of Voting Claim of the First Lien Notes, Unsecured Senior Notes, Unsecured Pari Passu Notes or Unsecured Subordinated Notes, calculated using the principal amount plus accrued and unpaid interest showing on the records of Holdings or Wireless, as applicable, as at the Record Date on each First Lien Note, Unsecured Senior Note, Unsecured Pari Passu Note and Unsecured Subordinated Note, respectively, and that, unless otherwise ordered by this Court, the Arrangement Resolution can only be passed, with or without variation by:

the registered holders of the First Lien Notes, who collectively represent at least two-thirds in value of the Voting Claims of all First Lien Noteholders who actually vote on the Arrangement (in person or by proxy) at the Meeting; and

the registered holders of the Unsecured Notes who collectively represent at least two-thirds in value of the Voting Claims of all Unsecured Noteholders who actually vote (in person or by proxy) at the Meeting.

Such votes shall be sufficient, but not necessary unless otherwise ordered by this Court, to authorize the Applicant to do all such acts and things as may be necessary or desirable to give effect to the Acquisition Plan on a basis consistent with what is provided for in the Information Circular without the necessity of any further approval by the Voting Securityholders, subject only to final approval of the Acquisition Plan by this Honourable Court.

THIS COURT ORDERS that, for purposes of determining whether or not the Acquisition Plan has received the affirmative vote of the Required Majority of the Unsecured Noteholder Class and the First Lien Noteholder Class, the tabulation agent for the Creditor's Meeting will separately record the vote of each Voting Securityholder and in respect of the Unsecured Noteholder Class shall first record the vote of the Unsecured Senior Noteholders, then the votes of the Unsecured Pari Passu Noteholders, and then the votes of the Unsecured Subordinated Noteholders.

THIS COURT ORDERS that, notwithstanding any provision of this Interim Order, to the extent that the Applicant exercises the Senior Noteholder Payment Election (as defined below), the First Lien Noteholders shall be treated as Unaffected Creditors for all purposes under the Acquisition Plan and any votes cast by the First Lien Noteholders at the Creditor's Meeting shall be disregarded.

Senior Noteholder Payment Election

THIS COURT ORDERS that, from and after the date of this Interim Order, the Applicant shall, with the consent of the Requisite Majority of the Initial Consenting Noteholders, be authorized to elect (the "Senior Noteholder Payment Election") to: (1) repay in full all Indebtedness (as defined in the First Lien Indenture) owing to the First Lien Noteholders at the time of such repayment in an amount to be determined by the First Lien Note Indenture Trustee (a "First Lien Repayment") or (2) repay in full all principal and accrued interest (under section 2.01 of the First Lien Indenture) owing under the First Lien Notes at the time of such repayment (a "First Lien Payment") and pay into escrow for the sole benefit of the First Lien Noteholders (subject only to any rights or liens of the First Lien Note Indenture Trustee pursuant to the First Lien Note Indenture or otherwise) any additional amounts, fees or premiums or other Indebtedness that may be claimed to be owing to the First Lien Noteholders at the time of such repayment (the "Holdback Amount" and, together with the First Lien Payment, a "First Lien Payment & Escrow"). Any such First Lien Repayment or First Lien Payment & Escrow shall be made in consideration for the complete satisfaction, release and discharge of all Indebtedness owing to the First Lien Noteholders pursuant to the First Lien Notes and any and all security granted in favour of the First Lien Noteholders as security for the Indebtedness, with such satisfaction, release and discharge becoming effective upon any such First Lien Repayment or First Lien Payment & Escrow being made. Following any First Lien Payment & Escrow, the final amount to be paid to First Lien Noteholders from the Holdback Amount (if any) shall be determined by the Court or by agreement of the Applicant, the Initial Consenting Noteholders and any First Lien Noteholder with respect to its pro rata share of the Holdback Amount. Any remaining amount of the Holdback Amount, after payments (if any)

have been made in respect of any or all First Lien Noteholders (whether by Court order or agreement as above) shall be distributed in accordance with the terms of the Acquisition Plan or as otherwise ordered by this Court.

Early Consent Deadline

THIS COURT ORDERS that the Early Consent Deadline shall be the date that is five days after the Purchase Price Notice Date (or such other date as the Applicant, Holdings and the Requisite Majority of the Initial Consenting Noteholders may agree).

THIS COURT ORDERS that compliance with the notice requirement of paragraphs 13 and 14 shall constitute sufficient notice of the Early Consent Deadline.

Alternative CCAA Acquisition Plan

THIS COURT ORDERS that, pursuant to a further order of this Court, votes cast at the Meeting in respect of the Acquisition Plan may count as votes cast in respect of an Alternative CCAA Plan, on the terms and conditions set forth in the Acquisition Plan.

Hearing of Application for Approval of the Acquisition Plan

THIS COURT ORDERS that following the Meeting, and in accordance with the terms of any Arrangement Agreement, the Applicant may, but shall not be required to, apply to this Court for final approval of the Acquisition Plan on a date to be determined by the Applicant and this Court (the "Final Hearing Date").

THIS COURT ORDERS that distribution of the Notice of Application and the Information Circular (including the Interim Order), when sent in accordance with paragraphs 13 and 14 shall constitute good and sufficient service of the Notice of Application and this Interim Order and no other form of service need be effected and no other material need be served unless a Notice of Appearance is served in accordance with paragraph 30.

THIS COURT ORDERS that any Notice of Appearance served in response to the Notice of Application shall be served on the solicitors for the Applicant as soon as reasonably practicable, and, in any event, no less than five (5) days before the date set by the Court for the hearing of this Application at the following addresses:

NORTON ROSE CANADA LLP
 TD South Tower
 Suite 2300
 Toronto-Dominion Centre
 79 Wellington Street West
 P.O. Box 128
 Toronto, Ontario M5K 1H1

Attention: Orestes Pasparakis and Marc Kestenberg

THIS COURT ORDERS that, subject to further order of this Court, the only persons entitled to appear and be heard at the hearing of the within Application shall be:

- the members of the Mobilicity Group;
- the Director;
- legal counsel to the Initial Consenting Noteholders; and

any person who has filed and served a Notice of Appearance herein in accordance with the Notice of Application, this Interim Order and the Rules of Civil Procedure.

THIS COURT ORDERS that any materials to be filed by the Mobilicity Group in support of the within Application for final approval of the Acquisition Plan may be filed up to one day prior to the hearing of the Application without further order of this Court.

THIS COURT ORDERS that in the event the within Application for final approval does not proceed on the date set by the Court for the hearing of this Application, and is adjourned, only those persons who served and filed a Notice of Appearance in accordance with paragraph 30 shall be entitled to be given notice of the adjourned date.

No Right to Declare Default

THIS COURT ORDERS that, (1) unless leave of this Court is granted on five days' notice to the Applicant, from 12:01 am on the date of this Interim Order until and including the earlier of June 30, 2013 and the Effective Date: no holder of the First Lien Notes, Existing Second Lien Notes, the Unsecured Senior Notes, the Unsecured Pari Passu Notes or the Unsecured Subordinated Notes, nor any of the following material suppliers to the Mobilicity Group: Ericsson Canada Inc.; Ingram Micro Inc., AMDOCS Canadian Managed Services, Inc., and Research In Motion Limited, as well as their affiliates, successors and permitted assigns (each a "Material Supplier") shall have any rights to terminate, accelerate, amend or declare in default any contract, agreement, instrument or other document to which any member of the Mobilicity Group are a party due to any member of the Mobilicity Group being a party to this proceeding or having made an application to this Court pursuant to section 192 of the CBCA or taking any steps in furtherance thereof; and (2) on consent of the holders of the Existing Second Lien Notes, all holders of the Existing Second Lien Notes are hereby stayed from enforcing the payment or security in respect of the Existing Second Lien Notes.

THIS COURT ORDERS that the Mobilicity Group shall provide a copy of this Interim Order to each Material Supplier within 5 business days of the date of this Interim Order.

Precedence

THIS COURT ORDERS that, to the extent of any inconsistency or discrepancy between this Interim Order and the terms of any instrument creating, governing or collateral to the First Lien Notes, Unsecured Senior Notes, the Unsecured Pari Passu Notes and the Unsecured Subordinated Notes, or the articles or by-laws or any shareholders agreement of any member of the Mobilicity Group, this Interim Order shall govern. For greater certainty nothing in this Order shall affect the substantive rights of any First Lien Noteholder.

Extra-Territorial Assistance

THIS COURT seeks and requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States or other country to act in aid of and to assist this Court in carrying out the terms of this Interim Order.

Variance

THIS COURT ORDERS that the Applicant shall be entitled to seek leave to vary this Interim Order upon such terms and upon the giving of such notice as this Court may direct.

THIS COURT ORDERS that the requirement for service of the Notice of Motion is hereby dispensed with.

General

1. THIS COURT ORDERS that any interested party (including the Applicant) may apply to this Court to vary or amend this Order (a) on not less than four (4) days notice to the Applicant, counsel to the Initial Consenting Noteholders and any other party or parties likely to be affected by the Order sought; and (b) within seven (7) days of the distribution of the Meeting Materials as set out in Paragraphs 13 and 14, or upon such other notice, if any, as this Court may order.

* * * * *

SCHEDULE "B"

Court File No. CV 13-10080-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR. JUSTICE WILTON-SIEGEL

FRIDAY, THE 26TH DAY OF APRIL, 2013

IN THE MATTER OF AN APPLICATION UNDER SECTION 192 OF THE CANADA BUSINESS CORPORATIONS ACT, R.S.C. 1985, c. C-44, AS AMENDED, AND RULES 14.05(2) AND 14.05(3) OF THE RULES OF CIVIL PROCEDURE

AND IN THE MATTER OF A PROPOSED ARRANGEMENT OF 8440522 CANADA INC., AND INVOLVING DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

INTERIM ORDER
(Recapitalization Plan)

THIS MOTION made by the Applicant, 8440522 Canada Inc. (the "Applicant") for an interim order for advice and directions pursuant to section 192 of the Canada Business Corporations Act, R.S.C. 1985, c. C-44, as amended (the "CBCA"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion, the Notice of Application and the affidavit of William E. Aziz sworn April 24, 2013, (the "Aziz Affidavit"), including the Plan of Arrangement (the "Recapitalization Plan"), which is attached as Schedule E to the draft notice of meeting and information circular (collectively, the "Information Circular"), which is attached as Exhibit A to the Aziz Affidavit and on hearing the submissions of counsel for the Applicant and the Initial Consenting Noteholders (as defined in the Recapitalization Plan) and on being advised that the Director appointed under the CBCA (the "Director") does not consider it necessary to appear,

Definitions

THIS COURT ORDERS that all definitions used in this Interim Order shall have the meaning ascribed thereto in the Recapitalization Plan or otherwise as specifically defined herein.

The Meeting

THIS COURT ORDERS that Data & Audio-Visual Enterprises Holdings Inc. ("Holdings") is permitted to call, hold and conduct a meeting (the "Meeting") of the registered holders of 9.5% first lien senior secured notes (the "First Lien Notes") of Data & Audio-Visual Enterprises Wireless Inc. ("Wireless"), registered holders of 15% senior unsecured debentures (the "Unsecured Senior Notes") of Holdings, registered holders of unsecured convertible debentures of Holdings ranking pari passu with the Unsecured Senior Notes (the "Unsecured Pari Passu Notes") and registered holders of unsecured convertible debentures of Holdings ranking subordinate to the Unsecured Senior Notes and the Unsecured Pari Passu Notes (the "Unsecured Subordinated Notes"; and together with the Unsecured Senior Notes and the Unsecured Pari Passu Notes, collectively, the "Unsecured Notes"; and collectively the registered holders of the Unsecured Notes and the registered holders of the First Lien Notes, the "Voting Securityholders") to be held at the offices of Norton Rose Canada LLP, Royal Bank Plaza, South Tower, 200 Bay Street, Suite 3800, Toronto, Ontario, M5J 2Z4 on May 21, 2013 at 10:00 am to consider and, if determined advisable, pass, with or without variation, a resolution adopting and approving, with or without variation, the Recapitalization Plan (collectively, the "Arrangement Resolution").

THIS COURT ORDERS that the Meeting shall be called, held and conducted in accordance with the CBCA, the Recapitalization Plan, the Information Circular, and the articles and by-laws of the Applicant, subject to what may be provided hereafter and subject to any further order of this Court.

THIS COURT ORDERS that a member of the board of directors of Holdings, shall preside as the chair of the Meeting and, subject to this Order and any further order of the Court, shall decide all matters relating to the conduct of the Meeting.

THIS COURT ORDERS that the record date (the "Record Date") for determination of the Voting Securityholders entitled to notice of, and to vote at, the Meeting shall be April 25, 2013.

THIS COURT ORDERS that the only persons entitled to attend or speak at the Meeting shall be:

registered holders of the First Lien Notes as at the Record Date, or their proxyholders;

registered holders of the Unsecured Senior Notes as at the Record Date, or their proxyholders;

registered holders of the Unsecured Pari Passu Notes as at the Record Date, or their proxyholders;

registered holders of the Unsecured Subordinated Notes as at the Record Date, or their proxyholders;

legal counsel and advisors of any of the foregoing;

legal counsel to the Initial Consenting Noteholders;

legal counsel to the Supporting First Lien Noteholders;

the officers, directors, and legal counsel, of the Applicant, Holdings and Wireless;

the Unsecured Senior Notes Indenture Trustee and its legal counsel;

the First Lien Note Indenture Trustee and its legal counsel;

the Director; and

other persons who may receive the permission of the chair of the Meeting.

THIS COURT ORDERS that the Mobilicity Group may transact such other business at the Meeting as is contemplated in the Information Circular, or as may otherwise be properly before the Meeting.

Quorum

THIS COURT ORDERS that quorum at the Meeting shall be one registered holder of the First Lien Notes and two registered holders of any of the Unsecured Notes, present in person or by proxy at the opening of the Meeting who are entitled to vote at the Meeting.

Amendments to the Recapitalization Plan

THIS COURT ORDERS that the Applicant is authorized to make, subject to: (i) the prior consent of the Initial Consenting Noteholders (to the extent the amendment, restatement, modification or supplement described hereinafter may affect holders of the First Lien Notes, holders of the Unsecured Senior Notes, holders of the Existing Second Lien Notes, or the Backstop Parties); and (ii) paragraph 10 below, such amendments, restatements, modifications or supplements to the Recapitalization Plan as it may determine without any additional notice to the Voting Securityholders, or others entitled to receive notice under paragraphs 13 and 14 hereof, and the Recapitalization Plan, as so amended, modified, restated or supplemented shall be the Recapitalization Plan to be submitted to the Voting Securityholders at the Meeting and shall be the subject of the Arrangement Resolution. Amendments, modifications, restatements or supplements may be made following the Meeting, but shall be subject to review and, if appropriate, further direction by this Court at the hearing for the final approval of the Recapitalization Plan.

THIS COURT ORDERS that, if any amendments, modifications or supplements to the Recapitalization Plan as referred to in paragraph 9, above, would, if disclosed, reasonably be expected to affect a Voting Securityholder's decision to vote for or against the Arrangement Resolution, notice of such amendment, modification or supplement shall be distributed by the Applicant to the Voting Securityholders by such method as the Applicant may determine is most practicable and expedient in the circumstances.

Amendments to the Information Circular

THIS COURT ORDERS that, subject to paragraph 16 below, the Applicant is authorized to make such amendments, revisions and/or supplements to the draft Information Circular as it may determine and the Information Circular, as so amended, revised and/or supplemented, shall be the Information Circular to be distributed in accordance with paragraphs 13 and 14.

Adjournments and Postponements

THIS COURT ORDERS that the Applicant, if it deems advisable, is specifically authorized to adjourn or postpone the Meeting on one or more occasions, without the necessity of first convening the Meeting or first obtaining any vote of

the Voting Securityholders respecting the adjournment or postponement, and notice of any such adjournment or postponement shall be given by the Applicant by such method as the Applicant may determine is most practicable and expedient in the circumstances. This provision shall not limit the authority of the Chair of the Meeting in respect of adjournments and postponements.

Notice of Meeting

THIS COURT ORDERS that, in order to effect notice of the Meeting, the Applicant shall send the Information Circular (including this Interim Order), the notice of the Meeting, the forms of proxy and an Election Form along with such amendments or additional documents as the Applicant may determine are necessary or desirable and are not inconsistent with the terms of this Interim Order (collectively, the "Meeting Materials"), to the following:

the Voting Securityholders at the close of business on the Record Date, at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting, by one or more of the following methods:

by pre-paid ordinary or first class mail at the addresses of the Voting Securityholders as they appear on the books and records of Holdings, or its registrar and transfer agent, at the close of business on the Record Date and if no address is shown therein, then the last address of the person known to the corporate secretary of Holdings;

by delivery, in person or by recognized courier service or inter-office mail, to the address specified in (i) above; or

by facsimile or electronic transmission to any Voting Securityholder, who is identified to the satisfaction of the Applicant, who requests such transmission in writing and, if required by the Applicant, who is prepared to pay the charges for such transmission;

the Unsecured Senior Note Indenture Trustee (as defined in the Information Circular) at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting;

the First Lien Note Indenture Trustee (as defined in the Information Circular) at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the meeting; and

the respective directors and auditors of Holdings, Wireless, Leasing and the Applicant and to the Director appointed under the CBCA, by delivery in person, by recognized courier service, by pre-paid ordinary or first class mail or, with the consent of the person, by facsimile or electronic transmission, at least twenty-one (21) days prior to the date of the Meeting, excluding the date of sending and the date of the Meeting.

and that compliance with this paragraph shall constitute sufficient notice of the Meeting.

THIS COURT ORDERS that the Applicant is hereby directed to distribute the Notice of Application and the Information Circular (including this Interim Order), and any other communications or documents determined by the Applicant to be necessary or desirable (collectively, the "Court Materials") to the registered Existing Equity Holders of Holdings by any method permitted for notice to the Voting Securityholders as set forth in paragraph 13 above, concurrently with the distribution described in paragraph 13 of this Interim Order. Distribution to such persons shall be to their addresses as they appear on the books and records of Holdings at the close of business on the Record Date.

THIS COURT ORDERS that accidental failure or omission by the Applicant to give notice of the Meeting or to distribute the Meeting Materials or Court Materials to any person entitled by this Interim Order to receive notice, or any failure or omission to give such notice as a result of events beyond the reasonable control of the Applicant, or the non-receipt of such notice shall, subject to further order of this Court, not constitute a breach of this Interim Order nor shall it invalidate any resolution passed or proceedings taken at the Meeting. If any such failure or omission is brought to the attention of the Applicant, it shall use its best efforts to rectify it by the method and in the time most reasonably practicable in the circumstances.

THIS COURT ORDERS that the Applicant is hereby authorized to make, with the consent of the Initial Consenting Noteholders, such amendments, revisions or supplements to the Meeting Materials and Court Materials (subject to paragraphs 9 and 10 in the case of any amendments, revisions or supplements to the Recapitalization Plan), as the Applicant may determine in accordance with the terms of the Arrangement Agreement and the Recapitalization Plan ("Additional Information"), and that notice of such Additional Information may, subject to paragraph 10, above, be distributed by press release, newspaper advertisement, pre-paid ordinary mail, or by the method most reasonably practicable and expedient in the circumstances, as determined by the Applicant.

Service

THIS COURT ORDERS that distribution of the Meeting Materials and Court Materials pursuant to paragraphs 13 and 14 of this Interim Order shall constitute notice of the Meeting and good and sufficient service of the within Application upon the persons described in paragraphs 13 and 14 and that those persons are bound by any orders made on the within Application. Further, no other form of service of the Meeting Materials or the Court Materials or any portion thereof need be made, or notice given or other material served in respect of these proceedings and/or the Meeting to such persons or to any other persons, except to the extent required by paragraph 10, above.

Solicitation and Revocation of Proxies and Election Forms

THIS COURT ORDERS that Holdings and the Applicant are authorized to use the proxies and Election Forms substantially in the form of the drafts accompanying the Information Circular, with such amendments and additional information as Holdings and the Applicant may determine are necessary or desirable, with the consent of the Initial Consenting Noteholders, subject to the terms of the Arrangement Agreement and the Recapitalization Plan. Holdings and the Applicant are authorized, at their expense, to solicit proxies and Election Forms, directly or through their officers, directors or employees, and through such agents or representatives as they may retain for that purpose, and by mail or such other forms of personal or electronic communication as they may determine. Holdings or the Applicant may waive, with the consent of the Initial Consenting Noteholders the time limits set out in the Information Circular for the deposit or revocation of proxies by Voting Securityholders, or Election Forms by Eligible Investors, if Holdings or the Applicant deems it advisable to do so.

THIS COURT ORDERS that Voting Securityholders shall be entitled to revoke their proxies in accordance with section 148(4) of the CBCA (except as the procedures of that section are varied by this paragraph) provided that any instruments in writing delivered pursuant to s.148(4)(a)(i) of the CBCA: (a) may be deposited at the registered office of the Applicant or with the transfer agent of the Applicant as set out in the Information Circular; and (b) any such instruments must be received by the Applicant or its transfer agent not later than 5:00 p.m. two business days immediately preceding the Meeting (or any adjournment or postponement thereof).

Voting

THIS COURT ORDERS that the only persons entitled to vote in person or by proxy on the Arrangement Resolution, or such other business as may be properly brought before the Meeting, shall be registered holders as at the Record Date of:

the First Lien Notes (or their proxyholders);

the Unsecured Senior Notes (or their proxyholders);

the Unsecured Pari Passu Notes (or their proxyholders); and

the Unsecured Subordinated Notes (or their proxyholders).

Illegible votes, spoiled votes, defective votes and abstentions shall be deemed to be votes not cast. Proxies that are properly signed and dated but which do not contain voting instructions shall be voted in favour of the Arrangement Resolution.

THIS COURT ORDERS that votes shall be taken at the Meeting on the basis of one vote for each dollar of Voting Claim of the First Lien Notes, Unsecured Senior Notes, Unsecured Pari Passu Notes or Unsecured Subordinated Notes, calculated using the principal amount plus accrued and unpaid interest showing on the records of Holdings or Wireless, as applicable, as at the Record Date on each First Lien Note, Unsecured Senior Note, Unsecured Pari Passu Note and Unsecured Subordinated Note, respectively, and that, unless otherwise ordered by this Court, the Arrangement Resolution can only be passed, with or without variation by:

the registered holders of the First Lien Notes, who collectively represent at least two-thirds in value of the Voting Claims of all First Lien Noteholders who actually vote on the Arrangement (in person or by proxy) at the Meeting; and

the registered holders of the Unsecured Notes who collectively represent at least two-thirds in value of the Voting Claims of all Unsecured Noteholders who actually vote (in person or by proxy) at the Meeting.

Such votes shall be sufficient, but not necessary unless otherwise ordered by this Court, to authorize the Applicant to do all such acts and things as may be necessary or desirable to give effect to the Recapitalization Plan on a basis consistent with what is provided for in the Information Circular without the necessity of any further approval by the Voting Securityholders, subject only to final approval of the Recapitalization Plan by this Honourable Court.

THIS COURT ORDERS that, for purposes of determining whether or not the Recapitalization Plan has received the affirmative vote of the Required Majority of the Unsecured Noteholder Class and the First Lien Noteholder Class, the tabulation agent for the Creditor's Meeting will separately record the vote of each Voting Securityholder and in respect of the Unsecured Noteholder Class shall first record the vote of the Unsecured Senior Noteholders, then the votes of the Unsecured Pari Passu Noteholders, and then the votes of the Unsecured Subordinated Noteholders.

THIS COURT ORDERS that regardless of whether or not the Arrangement Resolution is approved by the Required Majority of First Lien Noteholders, Wireless and the First Lien Indenture Trustee may, with the consent of the Supporting First Lien Noteholders, apply the votes taken in respect of the First Lien Notes at the Meeting to any amendment of the First Lien Indenture that is consistent with the matters contained in the First Lien Supplemental Indenture, provided that any such amendment is conducted pursuant to and in accordance with the amendment provisions of the First Lien Indenture.

Early Consent Deadline and Election Date.

THIS COURT ORDERS that the Early Consent Deadline shall be May 14, 2013 (or such later date as the Applicant, Holdings and the Initial Consenting Noteholders may agree).

THIS COURT ORDERS that the Election Date shall be May 14, 2013 (or such later date as the Applicant, Holdings and the Initial Consenting Noteholders may agree).

THIS COURT ORDERS that compliance with the notice requirement of paragraphs 13 and 14 shall constitute sufficient notice of the Early Consent Deadline and the Election Date.

Alternative CCAA Recapitalization Plan

THIS COURT ORDERS that, pursuant to a further order of this Court, votes cast at the Meeting in respect of the Recapitalization Plan may count as votes cast in respect of an Alternative CCAA Plan, on the terms and conditions set forth in the Recapitalization Plan.

Hearing of Application for Approval of the Recapitalization Plan

THIS COURT ORDERS that following the Meeting, and in accordance with the terms of the arrangement agreement among the members of the Mobilicity Group attached as Schedule D to the Information Circular, the Applicant may, but shall not be required to, apply to this Court for final approval of the Recapitalization Plan on a date to be determined by the Applicant and this Court.

THIS COURT ORDERS that distribution of the Notice of Application and the Information Circular (including the Interim Order), when sent in accordance with paragraphs 13 and 14 shall constitute good and sufficient service of the Notice of Application and this Interim Order and no other form of service need be effected and no other material need be served unless a Notice of Appearance is served in accordance with paragraph 30.

THIS COURT ORDERS that any Notice of Appearance served in response to the Notice of Application shall be served on the solicitors for the Applicant as soon as reasonably practicable, and, in any event, no less than five (5) days before the date set by the Court for the hearing of this Application at the following addresses:

NORTON ROSE CANADA LLP

TD Waterhouse Tower
Suite 2300
Toronto-Dominion Centre
79 Wellington Street West
P.O. Box 128
Toronto, Ontario M5K 1H1

Attention: Orestes Pasparakis and Marc Kestenberg

THIS COURT ORDERS that, subject to further order of this Court, the only persons entitled to appear and be heard at the hearing of the within Application shall be:

the members of the Mobilicity Group;
the Director;
legal counsel to the Initial Consenting Noteholders; and

any person who has filed and served a Notice of Appearance herein in accordance with the Notice of Application, this Interim Order and the Rules of Civil Procedure.

THIS COURT ORDERS that any materials to be filed by the Mobilicity Group in support of the within Application for final approval of the Recapitalization Plan may be filed up to one day prior to the hearing of the Application without further order of this Court.

THIS COURT ORDERS that in the event the within Application for final approval does not proceed on the date set by the Court for the hearing of this Application, and is adjourned, only those persons who served and filed a Notice of Appearance in accordance with paragraph 30 shall be entitled to be given notice of the adjourned date.

No Right to Declare Default

THIS COURT ORDERS that, (1) unless leave of this Court is granted on five days' notice to the Applicant, from 12:01 am on the date of this Interim Order until and including the earlier of June 30, 2013 and the Effective Date: no holder of the First Lien Notes, Existing Second Lien Notes, the Unsecured Senior Notes, the Unsecured Pari Passu Notes or the Unsecured Subordinated Notes, nor any of the following material suppliers to the Mobilicity Group: Ericsson Canada Inc.; Ingram Micro Inc.; AMDOCS Canadian Managed Services, Inc., and Research In Motion Limited, as well as their affiliates, successors and permitted assigns (each a "Material Supplier") shall have any rights to terminate, accelerate, amend or declare in default any contract, agreement, instrument or other document to which any member of the Mobilicity Group are a party due to any member of the Mobilicity Group being a party to this proceeding or having made an application to this Court pursuant to section 192 of the CBCA or taking any steps in furtherance thereof; and (2) on consent of the holders of the Existing Second Lien Notes, all holders of the Existing Second Lien Notes are hereby stayed from enforcing the payment or security in respect of the Existing Second Lien Notes.

THIS COURT ORDERS that the Mobilicity Group shall provide a copy of this Interim Order to each Material Supplier within 5 business days of the date of this Interim Order.

Precedence

THIS COURT ORDERS that, to the extent of any inconsistency or discrepancy between this Interim Order and the terms of any instrument creating, governing or collateral to the First Lien Notes, Unsecured Senior Notes, the Unsecured Pari Passu Notes and the Unsecured Subordinated Notes, or the articles or by-laws or any shareholders agreement of any member of the Mobilicity Group, this Interim Order shall govern. For greater certainty nothing in this Order shall affect the substantive rights of any First Lien Noteholder.

Extra-Territorial Assistance

THIS COURT seeks and requests the aid and recognition of any court or any judicial, regulatory or administrative body in any province of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States or other country to act in aid of and to assist this Court in carrying out the terms of this Interim Order.

Exhibit “R”

Bellmore & Moore
Barristers & Solicitors

Brian P. Bellmore, B.Sc., LL.B., LL.M.
David C. Moore, B.Sc., LL.B.
Karen M. Mitchell, B.A., LL.B.
Kenneth G.G. Jones, LL.B.
Diana M. Soos, B.Sc., M.B.A., LL.B.

Suite 1600
393 University Avenue
Toronto, Canada
M5G 1E6
Tel: 416-581-1818
Fax: 416-581-1279

VIA EMAIL

August 28, 2013

Norton Rose Canada LLP
Royal Bank Plaza, South Tower
Suite 3800
200 Bay Street
Toronto, ON M5J 2Z4

Attention: Marc Kestenberg

Dear Mr. Kestenberg:

Re: Catalyst Capital Group Inc. and Data & Audio Visual Enterprises Wireless Inc.
Court File No.: CV 13-10016-00CL
Our File No.: CATA407

It appears from the latest financial information provided to Senior Noteholders that the Mobilicity Group projects, absent a change in circumstances, that its funds will run out on or about September 20, 2013.

If this occurs, the next payments to the First Lien Noteholders, due on September 20, 2013, will not be made. In addition, Mobilicity would not be able to qualify for the upcoming Spectrum auction.

While a CCAA filing is an obvious option, in Catalyst's opinion, this step would erode the potential value of the collateral held as security for the First Lien Notes, result in significant professional and related expenses, and have an adverse impact on the terms of any potential sale of the business.

Bellmore & Moore

In these circumstances, Catalyst repeats its earlier willingness to discuss the term sheet provided some time ago and other options, and requests a meeting as soon as possible for this purpose.

Yours very truly,
BELLMORE & MOORE

A handwritten signature in cursive script, appearing to read "David Moore".

Per: David C. Moore
DCM/bh

Exhibit “S”

Schmitt, Alexander

Subject: Letter to Moore - September 19, 2013 [OR-EDRMS.FID6125537]
Attachments: DOCSTOR-#2816711-v1-Letter_to_David_Moore_-_Sept_19_2013.pdf

From: Kestenberg, Marc
Sent: September-19-13 1:03 PM
To: David Moore
Cc: Soliman, Walied; Pasparakis, Orestes; Barry Goldberg (bgoldberg@canaccordgenuity.com); 'Bill Aziz (baziz@bluetreeadvisors.com)'; Stewart Lyons
Subject: Letter to Moore - September 19, 2013 [OR-EDRMS.FID6125537]

Please see attached.

Marc Kestenberg
Partner

NORTON ROSE FULBRIGHT

Barristers & Solicitors / Patent & Trade-mark Agents

September 19, 2013

Sent By E-mail

David C. Moore
Bellmore & Moore
Barristers and Solicitors
Suite 1600
393 University Avenue
Toronto, ON M5G 1E6

Norton Rose Fulbright Canada LLP
TD South Tower, Suite 2300
Toronto-Dominion Centre
79 Wellington Street West, P.O. Box 128
Toronto, Ontario M5K 1H1 Canada

F: +1 416.360.8277
nortonrosefulbright.com

Marc Kestenberg
+1 416.216.3977
marc.kestenberg@nortonrosefulbright.com

Your reference
CATA407

Our reference
01021782-0006

Dear Mr. Moore:

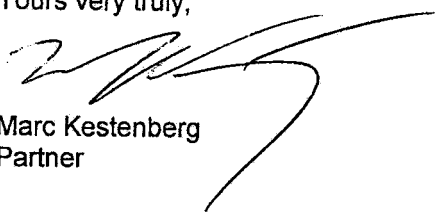
Mobilicity re: Catalyst

We understand from Barry Goldberg that on September 17, 2013, he received a "courtesy" phone call from Mr. De Alba inquiring about the status of Catalyst's DIP financing proposal. We are told by Mr. Goldberg that Mr. De Alba advised of Catalyst's intention to bring a petition for a bankruptcy order against Mobilicity.

As you know, in order for a petition in bankruptcy to succeed against Mobilicity, the company must have committed an act of bankruptcy. To date, Mobilicity has not committed such an act. Any petition by Catalyst is without merit.

More fundamentally, threatening to petition Mobilicity into bankruptcy as a negotiating strategy, or to obtain some collateral advantage, is highly improper. Should Catalyst choose to proceed with such strategy, its threats will be brought to the attention of the Court.

Yours very truly,


Marc Kestenberg
Partner

cc: Walied Soliman, Norton Rose Fulbright Canada LLP
Orestes Pasparakis, Norton Rose Fulbright Canada LLP
Stewart Lyons, President and Chief Executive Officer
William Aziz, Chief Restructuring Officer
Barry Goldberg, Canaccord Genuity

DOCSTOR: 2815956

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Exhibit “T”

Schmitt, Alexander

Subject: Catalyst/Mobility
Attachments: Catalyst_-_Notice_of_Application_(CCAA_Initial_App).pdf; rileyaff.pdf;
Mobility_draft_initial_order.pdf; Catalyst Mobility DIP Term Sheet - Sept. 19, 2013 -
Final.pdf

From: David Moore [mailto:david@bellmore.ca]
Sent: Thursday, September 19, 2013 08:32 PM Eastern Standard Time
To: Kestenberg, Marc; Pasparakis, Orestes
Subject: Catalyst/Mobility

Further to my email earlier today, I note that the alleged discussions you refer to were on an off-the-record, without prejudice basis.

That said, as I wrote earlier, the allegations contained in your letter are erroneous.

During the aforementioned discussions, Mr. de Alba expressed Catalyst's concerns about the deteriorating financial position of Mobility, the resulting damage to its business, and the adverse effects of this upon the collateral held in relation to the First Lien Notes. In this context, Mr. de Alba indicated that Catalyst might have to consider initiating a creditor sponsored CCAA application to protect the interests of the company's stakeholders.

No threat was made and there was no reference to any bankruptcy proceedings.

Catalyst has determined that it is indeed necessary to initiate a creditor sponsored CCAA proceeding. Accordingly, I enclose herewith a Notice of Application (which will be formally issued tomorrow morning), a sworn affidavit of James Riley dated September 19, 2013 (without exhibits), a draft of the CCAA order which Catalyst intends to seek, and the DIP term sheet referred to therein.

Earlier today, I advised His Honour Judge Morawetz of Catalyst's intention to proceed in this manner, and requested that time be set aside tomorrow for an initial appearance in relation to the above application. His Honour Judge Morawetz indicated that he would arrange for a judge to be available for this purpose tomorrow afternoon at 2:30 p.m.

Yours very truly,
David C. Moore.

Exhibit “U”

DIP Summary of Terms and Conditions
Up to C\$100,000,000 Senior Secured DIP Facility (the “DIP Facility”)

Set forth below is a summary of certain indicative terms of the Senior Secured DIP Facility. The arrangement and commitment of The Catalyst Capital Group Inc. (on behalf of funds managed by it) (“Catalyst”) to finance the DIP Facility is conditioned upon, among other things, negotiation, execution and delivery of definitive documentation including without limitation a loan agreement, a security agreement and other agreements and documents deemed necessary or appropriate by Catalyst (collectively the “DIP Facility Financing Documents”), in form and substance satisfactory to Catalyst and its outside legal counsel, which will contain such terms, conditions and provisions as are customary for financings of this type or deemed appropriate by Catalyst for this transaction in particular.

Borrower	Data & Audio-Visual Enterprises Wireless Inc. (the “Opco”)
Guarantors	Data & Audio-Visual Enterprises Holdings Inc. (the “Company”), all existing and future subsidiaries
Lender	All existing holders of 9.5% 1 st Lien Senior Secured Notes due April 29 th , 2018 (“1 st Lien Notes”) will be given the option to participate in a 50% commitment allocation of the DIP Facility on a prorate basis for their current holdings. Catalyst will backstop the entire DIP Facility and will be guaranteed a minimum allocation of 50% of the DIP Facility.
Agent	Catalyst or its designated affiliate
Security Interest	1st ranking security on all present and future property and assets of all Guarantors and security on all present and future property and assets of the Borrower with a ranking acceptable to Catalyst, in its sole discretion
Principal	Up to C\$100 million Revolver Commitment, drawdown schedule to be agreed upon by the Company and Catalyst based on Management Projection Materials.
Use of Proceeds	Operational expenses in accordance with a rolling 13 week budget to be approved by Catalyst acting reasonably which budget may include reasonable CCAA costs of the Company and Opco
Maturity	6 months with two options to extend term for a period of three months each (i.e. total term of up to 12 months if both extension options are utilized)
Rate	CDOR + 10.00%
CDOR Floor	3.00%
Commitment Fee	3.00%
Drawdown Fee	3.00%
Expenses	The Borrower and Guarantors will reimburse Catalyst from time to time on demand for all reasonable out-of-pocket fees, syndication expenses and other expenses (including, but not limited to, the reasonable fees, disbursements and other charges of Catalyst’s outside counsel, and professional fees of consultants, local counsel and other experts) incurred in connection with the DIP Facility, including the preparation of definitive documentation for the DIP Facility and other transactions contemplated hereby
Backstop	Pursuant to a backstop agreement in form and substance satisfactory to Catalyst (“Backstop Agreement”), Catalyst agrees to backstop the entire DIP Facility commitment in accordance with the provisions of the Term Sheet and Backstop Agreement. Catalyst will be guaranteed a minimum allocation of 50% of the DIP Facility.
Backstop Fee	C\$22 million
Documentation	Definitive DIP Facility Financing Documents for the DIP Facility to be approved by Catalyst. Target closing date of October 4 th , 2013 for definitive documentation.

- Mandatory Prepayment** The Principal payment of the DIP Facility will be due in full at Maturity.
- The Borrower will redeem at par plus accrued interest and fees to the date of redemption, plus the applicable Prepayment Premium referred to below, with: (a) the net after-tax cash proceeds received by the Borrower or any of its subsidiaries from any permitted sale or other disposition of assets, (b) all net insurance proceeds or other awards payable in connection with the loss, destruction or condemnation of any assets of the Borrower or any of its subsidiaries not utilized within 6 months to replace or repair such assets, and (c) the net proceeds of any additional issuance of debt, securities, commercial bank facilities or equity by the Borrower or the Guarantors.
- Optional Prepayment.....** The DIP Facility may be redeemed in full, at the option of the Borrower at any time after the closing date, upon at least 30 but not more than 60 days' prior written notice at a price equal to 100% of the principal amount thereof, plus accrued interest and fees to the date of prepayment, plus the amount of interest that would have accrued on the prepaid amount of principal to maturity and through any extension thereof if applicable ("Prepayment Premium").
- Financial Covenants.....** The DIP Facility Financing Documents will contain financial covenants customary for transactions of this type or deemed appropriate by Catalyst for this transaction in particular, including, but not limited to
- Minimum Cash Balance
 - Maximum Capital Expenditures
 - Minimum weekly variance levels to rolling 13 week cash flow projections
- Covenant levels established off Management Projections Materials with 10% cushion.
- Negative Covenants.....** Usual for debtor-in-possession financings of this nature, including, without limitation, the following to be applicable to Opco and each Guarantor:
- limitation on incurring additional debt, guarantees and hedging arrangements;
 - limitations on charges and liens;
 - limitations on loans and investments;
 - limitations on payment of principal, interest, fees or other amounts in respect of any indebtedness (other than under the DIP Facility);
 - limitations on prepayments, redemptions and repurchases of debt (other than under the DIP Facility);
 - limitations on capital expenditures;
 - limitations on mergers, amalgamations, consolidations, reorganization or recapitalizations;
 - limitations on acquisitions;
 - limitations on asset sales, sale leaseback transactions, leases, transfers and other dispositions and transactions resulting in the change of ownership or control;
 - limitations on dividends and other distributions on, and redemptions and repurchases of, equity interests and other restricted payments;
 - limitations on issuance of additional equity;
 - limitations on change of ownership and control;
 - limitations on transactions with affiliates;
 - limitations on advances and management bonuses or similar payments;
 - limitations on changing its name and any changes to its organizational documents;
 - limitations on actions which could reasonably be expected to have a material adverse effect;
 - limitations on changes in business;

- limitations on pre-petition/pre-filing payments;
- limitations on modifications, stays, vacations or amendments to court orders;
- limitations on plans of arrangement, reorganization or liquidation;
- limitations on right to settle claims and proceedings;
- limitations on entering into any credit facilities other than the DIP Facility; and
- limitations on amendments of debt and other material agreements.

Affirmative Covenants..... Usual for debtor-in-possession financings of this nature, including, without limitation, the following to be applicable to Opco and each Guarantor:

- Comply with provisions of the court orders made in connection with the CCAA proceeding;
- use of proceeds;
- validity and enforceability of loan and security documents;
- maintenance of first priority security interests;
- maintenance of corporate existence and rights;
- performance of obligations;
- conduct all activities in accordance with cash flow projects and other provisions set out in the DIP Facility Financing Documents;
- delivery of cash flow reports and forecasts, monthly financial covenant compliance, financial statements and other information;
- delivery of all pleadings, motions, applications, judicial information, reports, financial information and other materials filed by or on behalf of Opco or any Guarantor or distributed to Opco or any Guarantor in connection with the CCAA proceeding;
- delivery of notices of litigation, tax or environmental events, default notices and material adverse change notices;
- access to Opco's chief restructuring officer, other advisors and senior management team
- maintenance of assets, properties and operations;
- maintenance of all licences, approvals, permits and consents;
- maintenance of satisfactory insurance;
- compliance with laws;
- access to and inspection of books, records and properties;
- payment of all DIP Facility related interest, expenses, fees and other costs;
- payment of taxes and other obligations; and
- further assurances.

Reporting Requirements Weekly

Subordination Subordination provisions usual and customary for transactions of this type on terms reasonably satisfactory to Catalyst.

Representations Usual for debtor-in-possession financings of this nature, including, without limitation, the following to be applicable to Opco and each Guarantor:

- corporate status, organization and power;
- due authorization, non-contravention and no imposition of non-permitted liens;
- legal, valid, binding and enforceable documentation;
- validity, priority and perfection of security;
- no approvals or consents;
- accuracy of financial statements;

- accuracy of information provided to the Lenders;
- no material adverse change;
- absence of undisclosed liabilities, litigation and investigations;
- no violation of agreements or instruments other than those caused by the commencement of the Companies' Creditors Arrangement Act ("CCAA") proceeding;
- compliance with laws;
- filing of tax returns and payment of taxes;
- ownership of or valid leasehold or other interest in properties and assets;
- licenses and permits;
- issued and outstanding equity;
- employment matters;
- insurance; and
- regulatory matters.

Events of Default Usual for debtor-in-possession financings of this nature, including, without limitation, the following to be applicable to Opco and each Guarantor:

- the initial order is not satisfactory in form and substance to the Lenders or the stay of proceedings or other provisions of the initial order expires without being extended;
- the CCAA proceeding shall be dismissed or terminated or converted to a proceeding under the Bankruptcy and Insolvency Act;
- the filing of an involuntary or voluntary liquidation or bankruptcy proceeding;
- the appointment of a receiver and manager, receiver, interim receiver or similar official;
- an examiner or monitor with enlarged powers is appointed in the CCAA proceeding;
- the entry of an order staying, reversing, vacating or otherwise modifying, in each case in a manner adverse to the Lenders and without the prior consent of the Lenders, the DIP Facility, the superpriority of the court ordered charge to secure the DIP Facility, the initial order or any other order;
- the filing of any pleading by Opco or any Guarantor seeking, or otherwise consenting to, any of the matters set forth above;
- the filing of a plan of arrangement or reorganization that does not provide for the indefeasible payment in full upon confirmation in cash of all obligations owed to the Lenders;
- the entry of an order charging any of the collateral under applicable law against the Lenders or the commencement of other actions adverse to the Lenders or their respective rights and remedies under the DIP Facility;
- the entry of an order granting relief from the automatic stay so as to allow a third party to proceed against any assets;
- existence of any claims, other than in respect of the DIP Facility and other than those claims that are to have priority over the DIP charge under the CCAA initial order, entitled to superpriority under applicable laws senior to or pari passu with the superpriority of the Lenders' claims;
- failure to pay any principal, interest, fees or any other amount under the DIP Facility when due and owing;
- failure to comply with the cash flow projections;
- any representation or warranty is incorrect or misleading in any material respect on or as of the date made or deemed made;
- failure to comply with the terms, covenants or conditions of the DIP Facility Financing Documents;

- cross-default and cross-acceleration;
- actual or asserted unenforceability, invalidity, illegality, termination or impairment of any DIP Facility Financing Documents (including the failure of any lien to remain perfected);
- a court order is made, a liability arises or an event occurs that is or could reasonably be expected to have a material adverse effect;
- a change of ownership or control occurs; and
- non-compliance with laws.

- Conditions.....**
1. A court order in form and substance satisfactory to Catalyst shall have been issued in respect of the Company and Opco under the Companies' Creditors Arrangement Act which, among other things, orders that, while the DIP Facility (including the principal amount thereof, all accrued and unpaid interest thereon and all fees pertaining thereto) will rank subsequent and subordinate to the existing 1st Lien Notes (as defined below), the DIP Facility will rank senior and in priority to all other liabilities and obligations of the Company and Opco including, without limitation, the new financing notes and security therefor provided to the Company and Opco on February 6th, 2013.
 2. There shall be no additional issuance of debt, securities or commercial bank facilities by the Company, Opco or any of their respective subsidiaries being offered, placed or arranged except with the written consent of Catalyst (which consent shall only be forthcoming if all fees referred to herein and otherwise payable on closing or drawdown are paid immediately upon any commitment being accepted in relation to such debt, securities or bank facilities)
 3. Execution and delivery of definitive documentation with respect to the DIP Facility in a form acceptable to Catalyst that contains terms and conditions consistent with those set out herein and the satisfaction or waiver of all conditions precedent contained in such definitive documentation
 4. The commitment of Catalyst hereunder is also subject to the conditions that, as of the financial close (being the date upon which the definitive documentation is signed by Catalyst), there will have occurred as determined by Catalyst in its sole discretion no event or events of whatever nature, foreseeable or unforeseeable, that could reasonably be expected to have a material adverse effect, individually or in the aggregate, on (a) the business, financial condition or prospects, short or long-term, of the Company, Opco, or any of their subsidiaries or (b) the industry in which the Company, Opco, or any of their subsidiaries operate, or (c) domestic or international debt or capital markets

Expiration of Term Sheet..... September 29th, 2013 at 12pm EST

Exhibit “V”

Data & Audio-Visual Enterprises Holdings Inc., Data & Audio-Visual Enterprises Wireless Inc. and 8440522 Canada Inc.
Consolidated Weekly Cash Flow Statement
For the period from September 21, 2013 to December 20, 2013
CDN ('000)

	Sep-27	Oct-04	Oct-11	Oct-18	Oct-25	Nov-01	Nov-08	Nov-15	Nov-22	Nov-29	Dec-06	Dec-13	Dec-20	Total
Beginning Balance	2	9,288	7,677	6,541	6,581	5,526	6,098	4,763	2,000	2,000	2,201	2,000	2,000	9,288
Cash Receipts														
Customer Revenue	3	1,261	1,066	927	1,001	1,147	1,132	858	858	858	676	646	646	11,935
DIP Draw	4	-	-	-	-	-	-	409	-	350	1,533	2,731	10	6,378
Other Account Receivables		-	-	-	-	-	-	-	-	-	-	-	-	-
Tax Refund (Payment)	5	(81)	-	-	-	-	-	-	-	-	-	-	-	(81)
Total Cash Receipts		1,180	1,066	927	1,001	1,147	1,132	1,268	858	1,208	2,209	3,377	656	18,232
Cash Disbursements														
Payroll and Benefits	6	(607)	-	-	(516)	(85)	(668)	-	(495)	-	-	(495)	-	(3,492)
Sales & Marketing	7	(54)	(10)	(11)	(11)	(42)	(43)	(43)	(43)	(53)	(51)	(51)	(51)	(474)
Commissions	8	-	-	-	(812)	-	-	-	(589)	-	-	(535)	-	(1,935)
Service Delivery & IT	9	(453)	(164)	(35)	(35)	(292)	(204)	(199)	(199)	(199)	(241)	(163)	(163)	(2,380)
Payments for Outsourced Operations	10	154	(101)	(46)	(46)	(153)	(3,415)	(46)	(46)	(46)	(473)	(1,322)	(46)	(5,695)
Rent & Site Operations	11	(904)	(927)	(100)	-	(1,003)	-	(36)	-	(43)	(1,013)	(36)	-	(4,061)
General Operating Expenditures	12	(169)	(26)	(26)	(32)	(106)	(104)	(128)	(104)	(130)	(160)	(154)	(130)	(1,297)
BOD Expenses	13	-	(59)	-	-	-	-	-	-	-	-	-	-	(59)
CCAA Monitor and Monitor's Counsel Fees	14	-	(170)	(141)	(141)	(141)	(141)	(141)	(141)	(141)	(141)	(141)	(141)	(1,723)
CCAA Legal Fees	15	-	(698)	(529)	(463)	(124)	(124)	(463)	(124)	(124)	(124)	(463)	(124)	(3,487)
Other Legal Expenses	16	(760)	(45)	-	-	(45)	-	-	-	(45)	-	-	-	(895)
Interest Payments	17	-	-	-	-	-	-	-	-	-	(5)	(16)	-	(21)
Total Cash Disbursements		(2,792)	(2,201)	(887)	(2,056)	(575)	(2,467)	(4,031)	(2,203)	(1,409)	(2,209)	(3,377)	(656)	(25,520)
Net Cash Flow Balance		(1,611)	(1,135)	40	(1,055)	572	(1,335)	(2,763)	-	201	(201)	-	-	(7,288)
Ending Cash Balance		7,677	6,541	6,581	5,526	6,098	4,763	2,000	2,000	2,000	2,000	2,000	2,000	2,000

This is Exhibit V referred to in the
affidavit of William Ariz
sworn before me, this 29th
day of September 2013
Michael J. [Signature]
A COMMISSIONER IN CHIEF (NOTARY PUBLIC)

NOTES TO THE CONSOLIDATED WEEKLY CASH FLOW STATEMENT

1. The consolidated weekly cash flow statement (the “**Cash Flow Statement**”) has been prepared solely for the purpose of projecting the combined cash receipts and disbursements of Data & Audio-Visual Enterprises Holdings Inc. (“**Holdings**”), Data & Audio-Visual Enterprises Wireless Inc. (“**Wireless**”), and 8440522 Canada Inc. (collectively, the “**Applicants**” or “**Mobility**”). The Cash Flow Statement includes the business activities of the Applicants as set out herein and assumes that interim financing pursuant to a Debtor in Possession Loan Facility (“**DIP**”) in respect of which the Applicants will seek court approval, will be available to fund the projected shortfall in net cash flow.

The Cash Flow Statement represents management’s reasonable estimates at present. The actual timing and amount of the receipts and disbursements may fluctuate from the estimates shown herein and these fluctuations may be material. Disbursements are inclusive of any applicable federal and provincial sales taxes.

Readers are cautioned that the Cash Flow Statement may not be appropriate for their purposes.

The Cash Flow Statement is presented on a weekly basis from September 21, 2013 to December 20, 2013 (the “**Period**”) and represents management’s reasonable estimates of the results of operations and CCAA costs of administration during the Period.

The Cash Flow Statement is presented in thousands of Canadian dollars and assumes that any foreign currency transactions are made based on foreign exchange rates in effect as of September 20, 2013.

The Cash Flow Statement assumes that the Applicants file for CCAA protection on September 30, 2013 and that as a result, they are afforded a stay of proceedings that is effective against their pre-filing creditors, including amounts owed to their secured creditors. In accordance with the proposed Initial Order, the Cash Flow Statement assumes that the only pre-filing creditors to be paid are the Applicants’ dealers, which are owed commissions dating back to August 2013.

The Cash Flow Statement assumes that the Applicants will secure sufficient DIP financing to sustain their operations while under CCAA protection and that the DIP financing is approved pursuant to an order of the Court.

2. The Opening Cash Balance includes Mobility’s cash on hand, net of outstanding cheques, as at September 20, 2013.

3. Customer Revenues represent projected weekly cash inflows resulting from prepayments for service by Mobilicity's existing and projected customers. Mobilicity has projected that its subscriber base will decrease following the commencement of the CCAA proceedings. The Cash Flow Statement also assumes that a portion of the customer receipts will be required to fund a deposit requested by Mobilicity's credit card processing company, reducing the net projected customer receipts during the Period.
4. The DIP Draw represents the projected draws on Mobilicity's DIP credit facility pursuant to the Agreement between the DIP Lenders and Mobilicity, assuming that the Agreement has been approved by the Court and that the conditions precedent in the Agreement have been satisfied. Interest on the DIP accrues at a rate of 15.5 percent per annum on the outstanding amounts, payable in cash monthly in arrears. Pursuant to the Agreement, the DIP is projected to be drawn in weekly tranches in order to provide the Applicants with a minimum ending cash balance of \$2 million. The first such weekly amount is assumed to be drawn in the week ending November 8, 2013.
5. Tax Refunds (Payments) represent the projected sales taxes collected from Mobilicity's customer revenues net of its sales taxes paid for products and services received. Other than the provincial sales tax payments projected to be made in the week ending September 27, 2013, it is assumed that all tax refunds and payments net to zero.
6. Payroll and Benefits represent projected gross payroll, including payments to executives and the monthly fees payable to the Chief Restructuring Officer along with the costs associated with standard employee benefit plan covering health, dental, accidental death and death, life insurance, short-term disability and long-term disability. The majority of the salaried and hourly employees are paid semi-monthly through direct deposit.
7. Sales & Marketing represent projected general costs associated with sales and marketing at Mobilicity's four corporate stores and general marketing activities for services rendered after the date of the Initial Order.
8. Commissions represent projected fees paid to the Applicants' dealers. Commissions are usually paid 45 days after the end of each month for newly acquired subscribers subject to the new subscribers remaining active for 35 days. The Cash Flow Statement assumes that pursuant to the proposed Initial Order, payments to Mobilicity's dealers are unaffected by the stay of proceedings.

9. Service Delivery & Information Technology relates primarily to roaming, long distance and data services provided to Mobilicity's customers, as well as the projected fees for Mobilicity's suppliers of credit card processing services.
10. Payments for Outsourced Operations represent projected payments to third party service providers for critical business process functions including network building and maintenance, call centre operations, handset logistics and distribution, and billing systems. The Cash Flow Statement assumes that the payments to these providers are made in accordance with the contractual terms currently contained in the various agreements.
11. Rent & Site Operations represent projected lease payments for Mobilicity's leased facilities, including its corporate head office in Vaughan, a sales office in Vancouver, two co-location data centers and four corporate retail stores. In addition, the Applicants lease approximately 500 locations for their cellular broadcasting equipment. Pursuant to the Initial Order, the Cash Flow Statement assumes all lease payments are made monthly in advance.
12. General Operating Expenditures include projected administration expenses, human resources expenses, travel and entertainment, and certain capital expenditures related to general business operations.
13. BOD Expenses represent projected fees payable to members of the Applicants' board of directors.
14. CCAA Monitor & Counsel Fees include the estimated fees and disbursements of the proposed CCAA Monitor and its legal counsel.
15. CCAA Legal Fees represent the estimated fees and disbursements for Mobilicity's legal counsel, legal counsel for Mobilicity's board of directors, counsel to the Ad Hoc Committee of Senior Unsecured Debenture Holders, and counsel to the proposed DIP Lenders.
16. Other Legal Expenses include projected legal expenses paid in relation to Equity Financial and general legal expenses for Mobilicity's day-to-day operations.

17. Consistent with the proposed Initial Order, the Applicants are not projected to make any post filing interest payments in respect of the \$195 million First Lien Notes or the \$43.25 million Second Lien Notes. Pursuant to the Agreement, interest is projected to be paid monthly in arrears on the outstanding amount of the DIP Draw at a rate of 15.5 percent per annum.

Confidential Exhibit “W”

(intentionally omitted)

Confidential Exhibit “X”

(intentionally omitted)

Confidential Exhibit “Y”

(intentionally omitted)

Confidential Exhibit “Z”

(intentionally omitted)

Confidential Exhibit “AA”

(intentionally omitted)

Confidential Exhibit “BB”

(intentionally omitted)

Confidential Exhibit “CC”

(intentionally omitted)

Confidential Exhibit “DD”

(intentionally omitted)

Exhibit “EE”

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.**\$30,000,000****15.5% Senior Secured DIP Notes****DIP NOTE PURCHASE AND GUARANTEE AGREEMENT****Dated September 30, 2013**

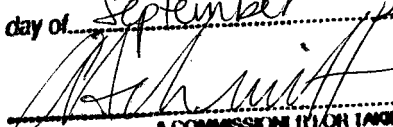
This is Exhibit EE referred to in the
affidavit of William Aziz
sworn before me, this 27th
day of September 2013

A COMMISSIONER IN CHIEF TAKING AFFIDAVITS

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DIP NOTE PURCHASE AND GUARANTEE AGREEMENT
15.5% Senior Secured DIP Notes

THIS AGREEMENT made as of the 30th day of September, 2013.

AMONG:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
together with its successors and assigns
(the “**Issuer**”)

- and -

The parties listed on the signature pages hereto as “Guarantors”, together with their successors and assigns
(collectively, the “**Guarantors**”)

- and -

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

- and -

EQUITY FINANCIAL TRUST COMPANY
solely in its capacity as collateral agent, together with its successors and assigns
(the “**Collateral Agent**”)

The Issuer and the Guarantors will be applicants and debtor companies in a proceeding (the “**CCAA Proceeding**”) under Canada’s *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), commenced on September 30, 2013 before the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”). Pursuant to the Initial Order to be granted in the CCAA Proceeding, the Issuer and the Guarantors shall be authorized (upon entry thereof) to retain possession of their assets, to continue the operation of their business and to enter into this DIP Note Purchase and Guarantee Agreement (the “**Agreement**”).

Pursuant to this Agreement and the Initial Order (upon entry thereof), the Purchasers shall make available to the Issuer a debtor-in-possession facility through the issuance of the DIP Notes (as defined below) in an aggregate principal amount of up to \$30,000,000, which will be available to the Issuer in five tranches on the terms and conditions set forth in this Agreement, as approved by the terms of the CCAA Court’s Initial Order.

The proceeds of the DIP Notes will be used for working capital and other general corporate purposes of the Issuer and the Guarantors including, without limitation, the payment of fees and expenses incurred in connection with entering into this Agreement, the CCAA Proceeding and all other uses contemplated by the Cash Flow Forecasts, in all cases subject to the terms of this Agreement and the Initial Order.

To secure repayment of the DIP Notes and the payment of the other Obligations of the Issuer and the Guarantors hereunder and under the other DIP Documents, the Issuer and the Guarantors are providing to the Collateral Agent for and on behalf of the Purchasers, pursuant to this Agreement, the other DIP Documents and the Initial Order, a perfected Lien on all present and after-acquired assets of the Issuer and each Guarantor.

1. DEFINITIONS

Capitalized terms used in this Agreement are defined in Schedule C.

2. SALE AND PURCHASE OF SENIOR SECURED DIP NOTES

2.1 Purchase and Sale

Subject to the terms and conditions of this Agreement, the Issuer shall issue and sell to the Purchasers and the Purchasers shall purchase from the Issuer up to \$30,000,000 in aggregate principal amount of senior second lien secured debtor-in-possession promissory DIP Notes (the “**DIP Notes**”) on the terms set forth herein, which DIP Notes shall be in the form set out in Exhibit A hereto and in the amounts set forth on Schedule D hereto. The aggregate purchase price for all of the DIP Notes issued from time to time in accordance with the terms set forth herein shall be up to \$30,000,000 (the “**Purchase Price**”). The Purchasers’ obligations hereunder are several and not joint or joint and several obligations, each in accordance with Schedule A, and no Purchaser shall have liability to any Person for the performance or non-performance by any Person (other than such Purchaser). The terms of the DIP Notes are set forth in this Agreement and in the DIP Notes. The DIP Notes will be secured by the Security. The security structure is described more fully in Section 6.

2.2 Closing

The closing of the purchase and sale of the Initial DIP Notes pursuant to this Agreement shall occur on the date on which the conditions precedent set out in Section 11.1 of this Agreement are satisfied (the “**Initial Closing Date**”). The closing of the purchase and sale of the Second Tranche DIP Notes, the Third Tranche DIP Notes, the Fourth Tranche DIP Notes and the Final DIP Notes shall occur on the date on which the conditions precedent set out in Section 11.2 of this Agreement are satisfied (each, a “**Subsequent Tranche Closing Date**” and together with the Initial Closing Date, each, a “**Closing Date**”).

2.3 Delivery

On the applicable Closing Date, the Issuer shall deliver to the Purchasers the applicable DIP Notes, duly executed, and free and clear of all Liens (other than Permitted Liens) and each Purchaser shall pay the Purchase Price for its pro rata share of the applicable DIP Notes being issued on such Closing Date to the Issuer.

3. TERMS OF THE DIP NOTES

3.1 Commitment

Each Purchaser severally, and not jointly or jointly and severally, commits to purchase its *pro rata* share of the DIP Notes on the applicable Closing Date, in accordance with its commitment set forth on Schedule A hereto (each, a “**Commitment**” and collectively, the “**Total Commitment**”), in each case subject to the satisfaction of the conditions precedent set out in Article 11. For greater certainty, to the extent that any of the Purchasers does not purchase its *pro rata* share of a Subsequent Tranche of DIP Notes in accordance with the terms hereof, none of the other Purchasers shall have any obligation or commitment to purchase any portion of any Subsequent Tranche of DIP Notes.

3.2 Termination by Purchasers

Notwithstanding anything herein to the contrary, and in addition to all other rights of the Purchasers under this Agreement, this Agreement and the Commitment of each Purchaser hereunder may be terminated at the option of the Purchasers if the Initial Order, *inter alia*, approving this Agreement and granting the DIP Charge has not been granted by October 15, 2013 or such later date as the Issuer and all of the Purchasers may agree.

3.3 Interest Rate

Interest shall be paid at the rate of 15.5% per annum (the “**Interest Rate**”), to be paid pursuant to the terms set forth in Section 10.

3.4 DIP Funding Fee

The Issuer agrees to pay to the Purchasers a DIP funding fee in an amount equal to \$3,000,000 in the aggregate (the “**DIP Funding Fee**”), to be distributed to each Purchaser *pro rata* in accordance with its Commitment, which DIP Funding Fee shall be payable in kind through: (i) the issuance of \$320,000 of additional Notes on the Initial Closing Date (the “**Initial DIP Funding Fee**”); and (ii) the issuance of \$750,000 of additional Notes on each Subsequent Tranche Closing Date, other than the Closing Date for the Final DIP Notes; and (iii) the issuance of \$430,000 of additional Notes on the Closing Date for the Final DIP Notes ((ii) and (iii) each, a “**Subsequent DIP Funding Fee**”). The Initial DIP Funding Fee shall be fully earned upon the issuance of the Initial DIP Notes on the Initial Closing Date and each Subsequent DIP Funding Fee shall be fully earned upon the issuance of the Second Tranche DIP Notes, Third Tranche DIP Notes, Fourth Tranche DIP Notes and the Final DIP Notes, as applicable, on the applicable Subsequent Tranche Closing Date.

3.5 Currency of Fees and Repayment

All repayments shall be made in Canadian dollars. All interest and fees on the DIP Notes shall be payable in Canadian dollars.

3.6 Use of Proceeds

- (a) Subject to the following paragraph, the proceeds from the DIP Notes shall be used for general corporate and working capital purposes of the Issuer and the Guarantors and to pay general operating expenses of the Issuer and the Guarantors (including expenses relating to the CCAA Proceeding), including the payment of legal fees and expenses incurred in connection with this Agreement and the transactions contemplated hereunder.
- (b) Notwithstanding the foregoing, the proceeds from the DIP Notes shall only be used in accordance with the Cash Flow Forecast, as approved by the Purchasers.

4. FOLLOW ON FACILITY

- 4.1 Each of the Issuer and the Guarantors hereby confirms and agrees that Article 4 of the Bridge Notes NPA is of no further force and effect.

5. DECISIONS BY PURCHASERS

- 5.1 Subject to Section 5.2, any actions taken or not taken, or consents, approvals or waivers provided, under this Agreement or any other document delivered in connection herewith by the Purchasers may be taken, delivered or provided upon the direction of Purchasers who hold DIP Notes in an aggregate principal amount equal to at least 66 2/3% of aggregate principal amount of the then outstanding DIP Notes.
- 5.2 The following actions may only be taken with the prior unanimous written consent of all of the Purchasers:
 - (a) approving any Approved Transaction or Restructuring Alternative;
 - (b) increasing the Commitment of any Purchaser hereunder;
 - (c) decreasing the Interest Rate or fees applicable to the DIP Notes;
 - (d) extending the date for payment of principal, interest, fees or any other amount relating to the DIP Notes;
 - (e) amending the Maturity Date;
 - (f) the subordination of the Security (other than to the Liens in favour of the Senior Agent) or permitting new or existing indebtedness (other than Senior Obligations and the Bridge Obligations) to rank ahead of or *pari passu* with the DIP Notes or the Security Documents;
 - (g) the release or material amendment of the Security Documents;
 - (h) any amendment to Section 3.2 or this Article 5 of this Agreement;
 - (i) the approval of any Cash Flow Forecast;

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- (j) the confirmation that the covenant in Section 13(kk) and the conditions precedent to the issuance of any and each Subsequent Tranche of DIP Notes in Sections 11.2(h), 11.2(i) and 11.2(i) have been observed or completed to the satisfaction of the Purchasers, and any amendment to or waiver of such covenant or conditions;
- (k) the payment of an interest payment in respect of the Senior Notes;
- (l) any other matter which is expressly stated to require the consent of all of the Purchasers; and
- (m) the issuance of any waiver of or consent to any of the matters set out in items (a) through (l) above (including, without limitation with regard to any Event of Default arising or resulting in connection therewith).

6. SECURITY

- 6.1 As security for payment and performance of all obligations of the Issuer and the Guarantors under or in connection with this Agreement, the DIP Notes and all other obligations hereunder and under the other DIP Documents (including all interest, fees and expenses payable hereunder or under the DIP Notes, the DIP Funding Fee and the Excess Amount (if any)), the Issuer and each Guarantor shall grant a second-priority perfected Lien in all of its property, assets and undertaking of the Issuer and the Guarantors, subject only to the Permitted Liens (the “Security”) to the Collateral Agent for the benefit of itself and the Purchasers, which Security shall rank *pari passu* with the Bridge Notes Security.
- 6.2 For the purposes of this Agreement, “Lien” means any mortgage, charge, hypothec, lien and security interest of any kind or nature whatsoever.

7. RANKING

- 7.1 All indebtedness and all security and all claims, liabilities and other obligations owing pursuant to or in connection with this Agreement and the DIP Notes (other than the interest payable on the DIP Notes pursuant to the terms hereof), whether on account of principal, fees or otherwise, shall be fully and effectively subordinated and postponed to the full and final payment of all Senior Obligations, and shall rank behind the Senior Obligations, and each Purchaser agrees to and shall be bound by the provisions of this Section 7.1.
- 7.2 All indebtedness and all security and all claims, liabilities and other obligations owing pursuant to or in connection with this Agreement and the DIP Notes (other than the interest payable on the DIP Notes pursuant to the terms hereof), whether on account of principal, fees or otherwise, shall in all respects rank *pari passu* (including with respect to order of payment) with the Bridge Notes and all indebtedness, security and all claims, liabilities and other obligations owing pursuant to or in connection with the Bridge Notes NPA.

- 7.3 With respect to the ranking of the Liens (including charges to be created by the CCAA Court in the Initial Order), the ranking in priority shall be:
- (a) the Liens in favour of the Senior Agent securing the Senior Obligations;
 - (b) the Administration Charge and the KERP Charge on a *pari passu* basis;
 - (c) the Directors' Charge; and
 - (d) the DIP Charge and the Bridge Notes Security on a *pari passu* basis.
- 7.4 Notwithstanding any other provision hereof, the Collateral Agent and the Purchasers shall not take any steps to enforce their security granted in connection with this Agreement or the Security Documents without prior approval of the CCAA Court.

8. MANDATORY REPAYMENT

- 8.1 The DIP Notes (together with any unpaid and accrued interest thereon and fees and expenses payable in respect thereof) shall be repayable in full on the date (the "**Maturity Date**") which is the earlier of (i) the date on which an Approved Transaction or Restructuring Alternative is consummated; (ii) February 12, 2014; and (iii) the date on which demand is made following the occurrence of an Event of Default that has not been waived by the Purchasers and that has resulted in an acceleration of the DIP Notes.
- 8.2 The DIP Notes (together with any unpaid and accrued interest thereon and fees and expenses payable in respect thereof) shall be repayable in full upon any mandatory repayment obligation or redemption offer under the Senior Indenture, subject to the prior repayment in full of all Senior Obligations, unless such obligation is waived in accordance with the terms of the Senior Indenture, and shall be payable to each Purchaser *pro rata* in accordance with its Commitment.

9. NO VOLUNTARY REPAYMENTS

- 9.1 The Issuer and the Guarantors shall not be entitled to voluntarily prepay any principal amount of the Obligations, in whole or in part in any circumstances, except that:
- (a) in the event that the Initial Order is granted but then any aspect of the Initial Order that approved any aspect of the DIP Notes is subsequently reversed, vacated or rescinded on appeal, then the Issuer shall have the right to prepay in full the amount of the Obligations then outstanding without penalty or premium; and
 - (b) the Issuer shall have the right to prepay in full the amount of the Obligations then outstanding without penalty or premium upon the simultaneous prepayment in full of all amounts then outstanding (including any unpaid and accrued interest and fees and expenses payable) in respect of the Bridge Notes.

9.2 Upon receipt by the Purchasers of indefeasible repayment in full of all Obligations:

- (a) the Obligations shall be extinguished;
- (b) the Purchasers shall have no further obligation to purchase any further DIP Notes hereunder or to make any other kind of loans or advances to the Issuer and/or the Guarantors; and
- (c) this Agreement shall terminate, except with respect to any obligations of the Issuer and/or the Guarantors under Section 13(t) and Article 20 (excluding Section 20.9) of this Agreement, all of which shall survive the termination of this Agreement.

10. PAYMENT OF INTEREST

- 10.1** Interest shall be payable monthly in arrears in cash on the first Business Day of each month and on the Maturity Date, commencing on (to the extent the Initial DIP Notes have been issued) November 1, 2013 in respect of interest accrued to and including October 31, 2013. Interest shall be calculated daily for the actual number of days elapsed in the period during which it accrues based on a year of 365 days and interest shall compound on each payment date, to the extent not paid when due. “**Business Day**” means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Toronto, Ontario, Canada.
- 10.2** For purposes of the *Interest Act* (Canada), where in this Agreement or in the DIP Notes a rate of interest is to be calculated on the basis of a year of 365 days, the yearly rate of interest to which the rate is equivalent is the rate multiplied by the actual number of days in the year for which the calculation is made and divided by 365, as applicable.
- 10.3** The parties shall comply with the following provisions to ensure that no receipt by the Purchasers of any payments to the Purchasers hereunder would result in a breach of section 347 of the *Criminal Code* (Canada):
- (a) If any provision of this Agreement or any of the other documents related to this Agreement would obligate the Issuer to make any payment to the Purchasers of an amount that constitutes “interest”, as such term is defined in the *Criminal Code* (Canada) and referred to in this section as “**Criminal Code interest**”, during any one-year period after the date of the first issuance of DIP Notes in an amount or calculated at a rate which would result in the receipt by the Purchasers of Criminal Code interest at a criminal rate (as defined in the *Criminal Code* (Canada) and referred to in this section as a “**criminal rate**”), then, notwithstanding such provision, that amount or rate during such one-year period shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not result in the receipt by the Purchasers during such one-year period of Criminal Code interest at a criminal rate, and the adjustment shall be effected, to the extent necessary, as follows:

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- (i) first, by reducing the amount or rate of interest required to be paid to the Purchasers during such one-year period; and
- (ii) thereafter, by reducing any upfront fees and liquidity payments and other amounts (if any) required to be paid to the Purchasers during such one-year period which would constitute Criminal Code interest.

The dollar amount of all such reductions made during any one-year period is referred to in this section as the “**Excess Amount**”.

- (b) Any Excess Amount shall be payable and paid by the Issuer to the Purchasers in the then next succeeding one-year period or then next succeeding one-year periods until paid to the Purchasers in full, subject to the same limitations and qualifications set out in paragraph (a), so that the amount of Criminal Code interest payable or paid during any subsequent one-year period shall not exceed an amount that would result in the receipt by the Purchasers of Criminal Code interest at a criminal rate.
- (c) Any amount or rate of Criminal Code interest referred to in this section shall be calculated and determined in accordance with generally accepted actuarial practices and principles as an effective annual rate of interest over the term that any DIP Notes remain outstanding on the assumption that any charges, fees or expenses that constitute Criminal Code interest shall be pro-rated over the period commencing on the date of the first issuance of DIP Notes and ending on the relevant Maturity Date (as may be extended by the Purchasers from time to time hereunder) and, in the event of a dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Purchasers shall be conclusive for the purposes of such calculation and determination.

10.4 If the DIP Notes are not repaid when due, all amounts then owing under or in respect of the DIP Notes will bear interest at the Interest Rate plus 2% per annum, compounded monthly on the last day of each month, and payable on demand.

11. CONDITIONS PRECEDENT TO FUNDING

11.1 Conditions Precedent to issuance of Initial DIP Notes

Each Purchaser’s *pro rata* share of the Initial DIP Notes may, at the option of the Purchasers after consultation with the Issuer, be purchased in one or more sub-tranches (each, an “**Initial Sub-Tranche**”) (subject to corresponding reductions to the fees and interest payable hereunder to account for the amount of such Initial Sub-Tranche) based on the funding requirements of the Issuer and the Guarantors at such time in an amount sufficient to ensure that the cash balance of the Issuer and the Guarantors shall not fall below \$2,000,000 based on and in accordance with the projections in the Cash Flow Forecast. The purchase by each Purchaser of its *pro rata* share of the Initial DIP Notes, including any Initial Sub-Tranche thereof, shall be subject to the following conditions precedent, all of which shall be for the benefit of the Purchasers and shall be satisfied prior to the purchase of the Initial DIP Notes or Initial Sub-Tranche thereof, as the case may be, in each case in form and substance satisfactory to the Purchasers:

- (a) execution and delivery by the Issuer and the Guarantors of this Agreement and the Initial DIP Notes, all in form and substance satisfactory to the Purchasers;
- (b) the Initial Order shall have been granted by the CCAA Court in form and substance satisfactory to the Purchasers, and shall be in full force and effect and shall not have been stayed, reversed, vacated, rescinded, modified or amended in any respect, except as may be acceptable to the Purchasers;
- (c) the DIP Charge shall have been granted pursuant to the Initial Order, in form and substance satisfactory to the Purchasers;
- (d) receipt of a certified copy of the constating documents and by-laws of the Issuer and each Guarantor, and of all corporate and other proceedings taken and required to be taken by the Issuer and the Guarantors to authorize, *inter alia*, the execution and delivery of this Agreement and the other DIP Documents to which it is a party and the performance of the transactions contemplated thereby; (ii) a certificate of status or like certificate of the Issuer and the Guarantors; and (iii) a certificate of incumbency of the Issuer and the Guarantors;
- (e) execution and delivery of all security documents by the Issuer and the Guarantors in favour of the Collateral Agent for the benefit of itself and the Purchasers substantially in the form and substance of the security documents delivered in favour of the Bridge Notes Agent (the “**Security Documents**”);
- (f) delivery of a completed Perfection Certificate and Disclosure Letter in respect of the Issuer and the Guarantors;
- (g) (i) completion of all necessary lien and other searches, together with all registrations, filings and recordings wherever the Purchasers deem appropriate in connection with the Security, and (ii) satisfaction that there are no Liens affecting the property or assets of the Issuer or any Guarantor, except (A) Liens in favour of the Senior Agent securing the Senior Obligations, (B) Liens in favour of the Bridge Notes Agent securing the Bridge Notes, (C) Liens arising by operation of law in the ordinary course of business without any contractual grant of security, (D) such Liens as have been previously disclosed in lien searches conducted by Purchasers’ counsel, which are set out on Schedule E hereto or (E) Liens granted by order of the CCAA Court with the consent of the Purchasers (collectively, the “**Permitted Liens**”);
- (h) delivery of all necessary documentation (including consents, amendments and supplements, if applicable) under the Senior Indenture, the Bridge Notes NPA, the Senior Unsecured Indenture and the Quadrangle Commitment, if any, to permit the issuance of the DIP Notes, the granting of the Liens pursuant to the Security that are second in priority to the Liens granted in respect of the Senior Notes and the Administration Charge and that rank *pari passu* with the Liens granted in respect of the Bridge Notes, to the extent that any of the foregoing is not otherwise permitted under the terms of the Initial Order;

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- (i) satisfaction that the Issuer and the Guarantors maintain adequate insurance coverage of such type and in such amounts and against such risks as is prudent for a business of an established reputation with financially sound and reputable insurers in coverage and scope acceptable to the Purchasers, with appropriate endorsements in favour of the Collateral Agent;
- (j) satisfaction that the Issuer and each of the Guarantors has complied with and is continuing to comply in all material respects with all applicable laws, regulations and policies and the requirements of applicable regulators in relation to its activities, to the extent that the failure to comply would have a Material Adverse Effect;
- (k) if such right is exercised by the Purchasers prior to the Initial Closing Date, the appointment of one Purchaser-nominated observer to the boards of the Issuer and/or the Guarantors;
- (l) delivery of legal opinions from relevant counsel to the Issuer and the Guarantors confirming the authorization, execution and delivery of this Agreement and the other DIP Documents by the Issuer and the Guarantors;
- (m) receipt by Goodmans of all expressions of interest, letters of interest and other relevant documents from all parties relating to a Potential Transaction involving the Issuer or any of the Guarantors, that were received since June 10, 2013;
- (n) receipt of the Cash Flow Forecast for the first 13 weeks after the Initial Closing Date, which shall be acceptable to the Purchasers;
- (o) satisfaction with the scope and extent of the authority of the CRO, including as set out in the Initial Order;
- (p) receipt of, and satisfaction with, any engagement letters between the Issuer or any Guarantor and (i) their financial advisors, including Canaccord Genuity Corp., and (ii) the CRO;
- (q) all reasonable and documented expenses of each of the Collateral Agent and the Purchasers incurred up to and including the Initial Closing Date in connection with the DIP Notes and the CCAA Proceeding, including, without limitation, reasonable and documented legal fees of counsel to the Collateral Agent and the Purchasers shall have been paid in full from the proceeds of the Initial DIP Notes, as directed by the Issuer;
- (r) all reasonable and documented expenses of each of the Bridge Notes Agent and the Bridge Note Purchasers incurred up to and including the Initial Closing Date in connection with Bridge Notes, including, without limitation, reasonable and documented legal fees of counsel to the Bridge Notes Agent and the Bridge Note Purchasers shall have been paid in full from the proceeds of the Initial DIP Notes, as directed by the Issuer;

- (s) other than those claims, actions, suits, investigations or proceedings which have been disclosed in the Disclosure Letter prior to the Initial Closing Date, there shall exist no unstayed claim, action, suit, investigation or proceeding, pending or (to the knowledge of any senior officers or directors of the Issuer or any Guarantor) threatened, in any court or before any arbitrator, mediator or governmental authority which relates to the Issuer, any Guarantor or the DIP Notes and which could reasonably be expected to result in a Material Adverse Effect;
- (t) (i) all representations and warranties contained in this Agreement and the other DIP Documents remain true and correct in all material respects as of the Initial Closing Date (unless stated to relate to a specific earlier date, in which case, such representations and warranties shall have been true and correct in all material respects as of such earlier date); (ii) no Default or Event of Default has occurred and is continuing or would result from the purchase of the Initial DIP Notes, and (iii) the issuance and purchase of the Initial DIP Notes shall not violate any applicable law, judgment or order of any court of competent jurisdiction;
- (u) the Issuer and the Guarantors shall be in compliance with all of their covenants under this Agreement;
- (v) no Default or Event of Default shall have occurred and be continuing on the Initial Closing Date or after giving *pro forma* effect to the issuance of the Initial DIP Notes on the Initial Closing Date;
- (w) no Material Adverse Effect shall have occurred after the date of this Agreement; and
- (x) the CRO, on behalf of the Issuer and the Guarantors and not in his personal capacity, shall have certified to the Purchasers and provided evidence satisfactory to the Purchasers (or their Advisors) that (i) the Issuer has available cash in an amount not exceeding \$2,000,000 and (ii) that the issuance of the Initial DIP Notes is necessary to the Issuer and the Guarantors.

11.2 Conditions Precedent to issuance of Subsequent Tranches

Each Purchaser's *pro rata* share of a second tranche of \$7,500,000 of DIP Notes (the "**Second Tranche DIP Notes**"), a third tranche of \$7,500,000 of DIP Notes (the "**Third Tranche DIP Notes**"), a fourth tranche of \$7,500,000 of DIP Notes (the "**Fourth Tranche DIP Notes**") and a final fifth tranche of DIP Notes which shall be in an aggregate principal amount equal to the remainder of the \$30,000,000 following the issuance of the Initial DIP Notes, the Second Tranche DIP Notes, the Third Tranche DIP Notes and the Fourth Tranche DIP Notes (the "**Final DIP Notes**") and together with the Second Tranche DIP Notes, the Third Tranche DIP notes and the Fourth Tranche DIP Notes, collectively, each a "**Subsequent Tranche of DIP Notes**") may, at the option of the Purchasers after consultation with the Issuer, be purchased in one or more sub-tranches (each, a "**Subsequent Sub-Tranche**") (subject to corresponding reductions to the fees and interest payable hereunder to account for the amount of such Subsequent Sub-Tranche) based on the funding requirements of the Issuer and the Guarantors at such time in an amount

sufficient to ensure that the cash balance of the Issuer and the Guarantors shall not fall below \$2,000,000 based on and in accordance with the projections in the Cash Flow Forecast. The purchase by each Purchaser of its *pro rata* share of each Subsequent Tranche of DIP Notes, including any Subsequent Sub-Tranche thereof, shall be subject to the following conditions precedent, all of which shall be for the benefit of the Purchasers and shall be satisfied prior to the purchase of each Subsequent Tranche of DIP Notes or Subsequent Sub-Tranche thereof, as the case may be, in each case in form and substance satisfactory to the Purchasers:

- (a) *Final Order and DIP Charge* – (i) the Initial Order shall have become a Final Order and (ii) the Initial Order shall continue to grant the Purchasers the DIP Charge in accordance with this Agreement;
- (b) *Spectrum Transfer* – the Purchasers, acting reasonably, shall be satisfied that there has been no material adverse change in the Spectrum Transfer Restrictions from the Spectrum Transfer Restrictions in effect on the date hereof;
- (c) *Cash Flows* – the CRO, on behalf of the Issuer and the Guarantors and not in his personal capacity, shall have certified to the Purchasers and provided evidence satisfactory to the Purchasers (or their Advisors) that the actual cash flows of the Issuer and the Guarantors for the period from the immediately preceding Closing Date through the relevant Subsequent Tranche Closing Date for the applicable Subsequent Tranche of DIP Notes, do not adversely vary by more than 5% from the projected cash flows contained in the most recently delivered Cash Flow Forecast for such period, provided that the amount of all professional fees paid during such period (including any amounts paid to the Purchasers' Advisors) and the amount of any interest payment not made pursuant to Section 13(l) shall be excluded solely for the purposes of such calculation;
- (d) *Professional Fees* – the CRO, on behalf of the Issuer and the Guarantors and not in his personal capacity, shall have certified to the Purchasers and provided evidence satisfactory to the Purchasers (or their Advisors) that the Professional Fees paid by the Issuer or any Guarantor for the period from the immediately preceding Closing Date through the relevant Subsequent Tranche Closing Date for the applicable Subsequent Tranche of DIP Notes, do not adversely vary by more than 10% per advisor from the projected amount of such Professional Fees for such advisor contained in the most recently delivered Cash Flow Forecast for such period, provided that such an adverse variance in respect of the Professional Fees of the Monitor and legal counsel to the Monitor shall be subject to an order of the CCAA Court prior to being taken into account for the purposes of this paragraph;
- (e) *Available Cash* – the CRO, on behalf of the Issuer and the Guarantors and not in his personal capacity, shall have certified to the Purchasers and provided evidence satisfactory to the Purchasers (or their Advisors) that (i) the Issuer has available cash in an amount not exceeding \$2,000,000 and (ii) that the issuance of the applicable Subsequent Tranche of DIP Notes is necessary to the Issuer and the Guarantors;

- (f) *Expenses* – (i) all reasonable and documented expenses of each of the Collateral Agent and the Purchasers incurred up to and including the relevant Subsequent Tranche Closing Date in connection with this Agreement, the DIP Notes and the CCAA Proceeding, including, without limitation, reasonable and documented legal fees of counsel to the Collateral Agent and the Purchasers; shall have been paid in full from the proceeds of issuance of the applicable Subsequent Tranche of DIP Notes, as directed by the Issuer; and (ii) all reasonable and documented expenses of each of the Bridge Notes Agent and the Bridge Note Purchasers incurred up to and including the relevant Subsequent Tranche Closing Date for the applicable Subsequent Tranche of DIP Notes in connection with Bridge Notes, including, without limitation, reasonable and documented legal fees of counsel to the Bridge Notes Agent and the Bridge Notes Purchasers shall have been paid in full from the proceeds of issuance of the applicable Subsequent Tranche of DIP Notes, as directed by the Issuer;
- (g) *Reps and Warranties, etc.* – (i) all representations and warranties contained in this Agreement and the other DIP Documents remain true and correct in all material respects as of the relevant Subsequent Tranche Closing Date (unless stated to relate to a specific earlier date, in which case, such representations and warranties shall have been true and correct in all material respects as of such earlier date); (ii) the Issuer and the Guarantors shall have complied with all of their covenants under this Agreement; (iii) no Default or Event of Default shall have occurred and be continuing on the relevant Subsequent Tranche Closing Date or after giving *pro forma* effect to the issuance of the applicable Subsequent Tranche of DIP Notes on the relevant Subsequent Tranche Closing Date; (iv) no Material Adverse Effect shall have occurred after the date of this Agreement and be continuing on the relevant Subsequent Tranche Closing Date; and (v) the issuance of the applicable Subsequent Tranche of DIP Notes shall not violate any applicable law, judgment or order of any court of competent jurisdiction, and the Purchasers shall have received a certification from an officer of the Issuer as to each of the foregoing items (i)-(v);
- (h) *Approved Transaction and Restructuring Alternative* – (i)(A) the Issuer and the Guarantors shall have determined and presented to the Purchasers the proposed Restructuring Alternative on or prior to October 24, 2013 or such other date as the Issuer and the Purchasers may agree or (B) commenced the Restructuring Alternative on or prior to October 24, 2013, or such other date as the Issuer and the Purchasers may agree, with the prior consent of the Purchasers or (C) if requested by the Purchasers, commenced the Restructuring Alternative on or prior to October 24, 2013 or such other date as the Issuer and the Purchasers may agree, (ii) the Purchasers shall be satisfied with an Approved Transaction on or before November 12, 2013, or such other date as the Issuer and the Purchasers may agree, or the Purchasers shall be satisfied with the status of the Restructuring Alternative; and (iii) there shall be no adverse change in the status of any Approved Transaction or Restructuring Alternative since the immediately preceding Closing Date; and

- (i) *Material Agreements* – the Ericsson Agreement, the Amdocs Agreement and the Ingram Agreement shall each have been amended and restated or otherwise addressed pursuant to the CCAA by no later than November 12, 2013, or such other date as the Issuer and the Purchasers may agree, in a manner satisfactory to the Purchasers.

12. REPRESENTATIONS AND WARRANTIES

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

- (a) Each of the Issuer and the Guarantors is a corporation duly incorporated, continued or amalgamated, as the case may be, and is validly existing under the laws of the jurisdiction in which it was incorporated, continued or amalgamated and each is duly qualified, licensed or registered to carry on business under the applicable law in all jurisdictions in which the nature of its assets or business makes such qualification necessary.
- (b) Subject to the entry of the Initial Order, the execution, delivery and performance by the Issuer and each Guarantor of this Agreement:
 - (i) are within its corporate, partnership, limited partnership or similar power, as applicable;
 - (ii) have been duly authorized by all necessary corporate, partnership, limited partnership or similar action, as applicable, including all necessary consents of the holders of its equity interests, where required;
 - (iii) do not (A) contravene its articles, by-laws or other constating documents, as applicable, (B) violate any judgment, order, notice, decree, statute, law, ordinance, rule or regulation applicable to it or any of its properties or assets, (C) conflict with or result in the breach of, or constitute a default under, or require a consent under, any Material Contract or (D) result in the creation or imposition of any lien or encumbrance upon any of its property; and
 - (iv) do not require the consent of, authorization by, approval of, or notification to, any Governmental Entity (other than those consents, approvals, authorizations or notifications that may be required in connection with an Approved Transaction or Restructuring Alternative).
- (c) Subject to the entry of the Initial Order, this Agreement constitutes a valid and binding obligation of the Issuer and each Guarantor enforceable in accordance with its terms.
- (d) The Issuer and each Guarantor (i) owns its respective assets with good and marketable title thereto, free and clear of all Liens, except for Permitted Liens, (ii) does not own any real property other than the real property disclosed in the Perfection Certificate.

- (e) There is no Default or Event of Default that has occurred and is continuing as of the date hereof.
- (f) All Indebtedness of the Issuer and each Guarantor as of the date hereof is disclosed in the Perfection Certificate, including without limitation Indebtedness under the Senior Indenture, the Bridge Notes NPA, the Senior Unsecured Indenture and the Quadrangle Commitment.
- (g) Except as disclosed in the Disclosure Letter and as otherwise contemplated by this Agreement and the transactions contemplated hereby, since June 11, 2013 there has not been (i) any Material Adverse Effect, (ii) any Material transaction to which the Issuer or any Guarantor is a party outside the ordinary course of business (other than as contemplated by this Agreement and the other DIP Documents), or (iii) any Material change in the capital or outstanding Indebtedness and Liabilities of the Issuer and the Guarantors (taken as a whole) (other than as contemplated by this Agreement and the other DIP Documents).
- (h) None of the Issuer or any Guarantor has any Material Liabilities except (i) Liabilities which are reflected and properly reserved against in the Financial Statements, (ii) Liabilities incurred in the ordinary course of business, having regard to the current financial condition of the Issuer and the Guarantors, including expenses incurred in connection with the CCAA Proceeding, in each case as reflected in the Cash Flow Forecast, (iii) current Liabilities arising in the ordinary course under the Contracts to which any of the Issuer and the Guarantors is a party (other than obligations which are required to be reflected on a balance sheet prepared in accordance with GAAP).
- (i) As of the date of this Agreement, the authorized capital of Holdings consists of (i) an unlimited number of common shares, of which 4,995,211 common shares are issued and outstanding, of which, 3,330,141 common shares are held by Data & Audio-Visual Enterprises Investments Inc. and 1,665,070 common shares are held by Quadrangle, and (ii) an unlimited number of Class B shares, of which 20,204,790 Class B shares are issued and outstanding, of which all Class B shares are held by Quadrangle. Holdings has no other capital stock authorized or, as of the date of this Agreement, issued and outstanding. All issued and outstanding Convertible Securities of Holdings, or existing rights to have such Convertible Securities of Holdings issued, as of the date hereof, are disclosed in the Perfection Certificate. All voting rights in respect of Holdings are vested in the holders of the common shares of Holdings. Class B shares are convertible at the option of the holder on a one-for-one basis into common shares.
- (j) As of the date of this Agreement, the authorized capital of Wireless consists of (i) an unlimited number of common shares, of which 43,974,221 common shares are issued and outstanding, all of which are held by Holdings, and (ii) an unlimited number of Class B shares. Wireless has no other capital stock authorized or, as of the date of this Agreement, issued and outstanding. All issued and outstanding Convertible Securities of Wireless, or existing rights to have such Convertible Securities of Wireless issued, as of the date hereof, are disclosed in the Perfection

Certificate. All voting rights in respect of Wireless are vested in the holders of the common shares of Wireless. Class B shares are convertible at the option of the holder on a one-for-one basis into common shares.

- (k) The estimated quantum of all bonus payments paid and expected to be paid to the senior executives of the Issuer and each Guarantor for the current fiscal year are set out in the Disclosure Letter.
- (l) Since June 17, 2013, except as otherwise contemplated by this Agreement or set forth in the Disclosure Letter, the Issuer and each Guarantor has conducted its business only in the ordinary course consistent with past practice, to the extent possible given the current financial condition of the Issuer and the Guarantors, and there has not been any resignation or termination of any director, senior officer or senior manager, or any increase in the rate of compensation payable or to become payable by any Issuer or any Guarantor to any director, senior officer or senior manager of the Issuer or any Guarantor (other than standard increases in connection with general, regularly-scheduled reviews consistent with past practice in respect of employees other than the top three highest paid employees of the Issuer and any Guarantor), including the making of any loan to, or the payment, grant or accrual of any bonus payment to any such Person.
- (m) There have been no changes to the compensation or severance entitlements or other benefits payable to directors, senior officers or senior managers (including by way of a "KERP") from their compensation and severance entitlements as disclosed in the Disclosure Letter and none of the Issuer or any Guarantor have agreed to any, or become obligated to pay any bonus payments or severance to the directors, senior officers or senior managers except in connection with existing benefit, incentive or compensation plans or employment contracts. The Issuer and the Guarantors have disclosed in the Disclosure Letter all benefit, incentive or compensation plans applicable to the senior officers and senior managers of the Issuer and each Guarantor, copies of which shall be made available to each Purchaser upon request.
- (n) The Issuer and the Guarantors have disclosed in the Disclosure Letter all employment agreements for the senior officers and senior managers of the Issuer and each Guarantor and have provided copies of all written employment agreements for the senior officers and senior managers of each of them, which are in full force and effect as of the date hereof, and there have been no extension, supplements or amendments thereto; there are no other written employment agreements for senior officers or senior managers to the Issuer and each Guarantor earning \$150,000 or more per annum, including all bonuses and other cash compensation.
- (o) Copies of all retainers for professionals and advisors engaged by the Issuer or Guarantors ("**Advisor Retainers**"), and all transaction, success, performance or change of control payments payable thereunder or in connection therewith, and all policies of directors' and officers' insurance maintained by the Issuer or Guarantors have been disclosed in the Disclosure Letter and have been included

Certificate. All voting rights in respect of Wireless are vested in the holders of the common shares of Wireless. Class B shares are convertible at the option of the holder on a one-for-one basis into common shares.

- (k) The estimated quantum of all bonus payments paid and expected to be paid to the senior executives of the Issuer and each Guarantor for the current fiscal year are set out in the Disclosure Letter.
- (l) Since June 17, 2013, except as otherwise contemplated by this Agreement or set forth in the Disclosure Letter, the Issuer and each Guarantor has conducted its business only in the ordinary course consistent with past practice, to the extent possible given the current financial condition of the Issuer and the Guarantors, and there has not been any resignation or termination of any director, senior officer or senior manager, or any increase in the rate of compensation payable or to become payable by any Issuer or any Guarantor to any director, senior officer or senior manager of the Issuer or any Guarantor (other than standard increases in connection with general, regularly-scheduled reviews consistent with past practice in respect of employees other than the top three highest paid employees of the Issuer and any Guarantor), including the making of any loan to, or the payment, grant or accrual of any bonus payment to any such Person.
- (m) There have been no changes to the compensation or severance entitlements or other benefits payable to directors, senior officers or senior managers (including by way of a "KERP") from their compensation and severance entitlements as disclosed in the Disclosure Letter and none of the Issuer or any Guarantor have agreed to any, or become obligated to pay any bonus payments or severance to the directors, senior officers or senior managers except in connection with existing benefit, incentive or compensation plans or employment contracts. The Issuer and the Guarantors have disclosed in the Disclosure Letter all benefit, incentive or compensation plans applicable to the senior officers and senior managers of the Issuer and each Guarantor, copies of which shall be made available to each Purchaser upon request.
- (n) The Issuer and the Guarantors have disclosed in the Disclosure Letter all employment agreements for the senior officers and senior managers of the Issuer and each Guarantor and have provided copies of all written employment agreements for the senior officers and senior managers of each of them, which are in full force and effect as of the date hereof, and there have been no extension, supplements or amendments thereto; there are no other written employment agreements for senior officers or senior managers to the Issuer and each Guarantor earning \$150,000 or more per annum, including all bonuses and other cash compensation.
- (o) Copies of all retainers for professionals and advisors engaged by the Issuer or Guarantors ("**Advisor Retainers**"), and all transaction, success, performance or change of control payments payable thereunder or in connection therewith, and all policies of directors' and officers' insurance maintained by the Issuer or Guarantors have been disclosed in the Disclosure Letter and have been included

in the Cash Flow Forecast, and there are no directors trusts that have been established by the Issuer or any Guarantor.

- (p) All payments to shareholders, directors, senior executives and their related parties, whether under contract or otherwise, including bonus payments, transaction payments, change of control payments, management fees, consulting or advisory fees or amounts payable in respect of reimbursement, in each case occurring between December 31, 2012 and the date of this Agreement (all such payments being “**Affiliate Payments**”) have been disclosed in the Disclosure Letter and have been included in the Cash Flow Forecast.
- (q) Other than as disclosed in the Disclosure Letter, there is not now pending or, to the knowledge of any of the senior officers or directors of the Issuer or any Guarantor, threatened against the Issuer or any Guarantor, nor has the Issuer or any Guarantor received notice in respect of, any claim, potential claim, litigation, action, suit, arbitration or other proceeding by or before any court, tribunal Governmental Entity or regulatory body, which would be reasonably likely to have, individually or in the aggregate, a Material Adverse Effect.
- (r) A complete and accurate list of all Material Contracts and amendments thereto, including without limitation, the Spectrum Licenses, is disclosed in the Disclosure Letter, and all such agreements are in full force and effect, except as would not reasonably be expected to result in a Material Adverse Effect. Each of the Issuer and the Guarantors shall, promptly upon request of any Purchaser, provide to such Purchaser copies of all Material Contracts requested by it. All of the Material Contracts are valid, binding and enforceable in accordance with their terms against the Issuer or Guarantor party thereto, except (i) as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting the rights of creditors or (ii) general principles of equity (regardless of whether enforceability is considered in a proceeding at law or in equity). As of the date of this Agreement, except as disclosed in the Disclosure Letter, there is no existing (or threatened in writing) default or dispute with respect to any of the Material Contracts that would reasonably be expected to result in a Material Adverse Effect.
- (s) Each of the Issuer and the Guarantors has conducted its business in compliance with all Laws and none of the Issuer or any Guarantor has received any notice to the effect that, or has otherwise been advised that, it is not in compliance with such laws, other than any such non-compliance as would not reasonably be expected to result in a Material Adverse Effect.
- (t) Except as would not have a Material Adverse Effect:
 - (i) The Issuer and the Guarantors, as applicable, are in possession of all, grants, authorizations, licenses (including the Spectrum Licenses), permits, easements, variances, exceptions, consents, certificates, approvals, registrations and orders of any governmental or regulatory authority, including, without limitation, Industry Canada, the Canadian

Radio-television Telecommunications Commission (the “CRTC”) and similar authorities in Canada and other jurisdictions necessary for the Issuer or any Guarantor to carry on their business as it is now being conducted (the “Company Permits”), the Company Permits are valid and in good standing and no suspension or cancellation of any of the Company Permits is pending or, to the knowledge of the Issuer or any Guarantor, threatened, except where the failure to have or the suspension or cancellation of, any of the Company Permits would not, individually or in the aggregate, have a Material Adverse Effect; and

- (ii) to the knowledge of the Issuer and the Guarantors, none of them has received any written notice that Industry Canada, the CRTC or any other governmental or regulatory authority (including, without limitation, Governmental Entities and other regulatory agencies outside of Canada) has commenced, or overtly threatened to initiate, any action to withdraw its approval for, revoke, request the recall of, or otherwise impair restrict or vary any Company Permits, or to restrain, impede or prohibit the execution, delivery and performance by the Issuer and each Guarantor of this Agreement or require or purport to require a variation of this Agreement.
- (u) The Issuer and the Guarantors maintain adequate insurance coverage of such type and in such amounts and against such risks as is prudent for a business of an established reputation with financially sound and reputable insurers in coverage and scope as is prudent for such a business, with appropriate endorsements in favour of the Collateral Agent.
- (v) Subject to the entry of the Initial Order, the Security Documents create a valid and continuing perfected Lien on the personal property described therein (collectively, the “Collateral”) in favour of the Collateral Agent for the benefit of itself and the Purchasers having the priority set forth herein, subject only to Permitted Liens. There are no other Liens on the Collateral other than Permitted Liens.
- (w) Neither the Financial Statements delivered to the Purchasers or their Advisors from time to time nor any other written statement or information (other than projections, which are subject to following sentence) furnished by or on behalf of or at the direction of the Issuer or any Guarantor to the Purchasers or their Advisors in connection with the negotiation, consummation or administration of this Agreement contain, as of the time such statements were so furnished, any untrue statement of a material fact or an omission of a material fact as of such time, which material fact is necessary to make the statements contained therein not misleading. All such statements, taken as a whole, together with this Agreement, all of the other DIP Documents and all other relevant documents do not contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained herein or therein not misleading. All financial projections, including the Cash Flow Forecast, furnished or made available by the Issuer and the Guarantors to the Purchasers and their Advisors have been prepared in good faith, on the basis of all known facts and using

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reasonable assumptions and the Issuer and the Guarantors believe such projections to be fair and reasonable.

- (x) All written information furnished by or on behalf of the Issuer and the Guarantors to the Purchasers or their Advisors for the purposes of, or in connection with, this Agreement, the other DIP Documents or any other relevant document or any other transaction contemplated thereby, including for greater certainty information contained in the Perfection Certificate and the Disclosure Letter, is true and accurate in all respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances.
- (y) Other than as disclosed in the Disclosure Letter, there are no agreements between any of the Issuer and/or the Guarantors and any other holder of debt or Equity Securities of the Issuer or any Guarantor with respect to any restructuring, refinancing or recapitalization matters.

13. COVENANTS

Each of the Issuer and the Guarantors covenants and agrees to comply with the following covenants:

- (a) The Issuer shall duly and punctually pay all principal, interest, fees and other amounts owing in respect of the DIP Notes and contemplated by this Agreement when due and payable.
- (b) The Issuer and the Guarantors shall use the proceeds of the DIP Notes only in accordance with Section 3.6.
- (c) The Issuer and the Guarantors shall provide the Purchasers and Goodmans draft copies of all motions, applications, proposed orders or other material or documents that any of them intend to file in the CCAA Proceeding at least three (3) days prior to any such filing or, where it is not practically possible to do so at least three (3) days prior to any such filing, as soon as possible, and all such filings shall be in form and substance acceptable to the Purchasers or Goodmans.
- (d) The Initial Order and any other orders in respect of this Agreement, the DIP Notes, any of the DIP Documents or the DIP Charge shall be submitted to the CCAA Court in a form confirmed in advance to be satisfactory to the Purchasers or Goodmans, subject to any amendments that are required by the CCAA Court or the Issuer that are acceptable to the Purchasers or Goodmans.
- (e) Any and all materials in respect of a proposed Plan or other transaction in respect of a Potential Transaction or a Restructuring Alternative shall only be submitted to the CCAA Court in a form confirmed in advance to be satisfactory to the Purchasers or Goodmans.

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- (f) (i)(A) the Issuer and the Guarantors shall have determined and presented to the Purchasers the proposed Restructuring Alternative on or prior to October 24, 2013 or such other date as the Issuer and the Purchasers may agree or (B) commenced the Restructuring Alternative on or prior to October 24, 2013, or such other date as the Issuer and the Purchasers may agree, with the prior consent of the Purchasers or (C) if requested by the Purchasers, commenced the Restructuring Alternative on or prior to October 24, 2013 or such other date as the Issuer and the Purchasers may agree, and (ii) the Issuer and the Purchasers shall have agreed upon a Sale Transaction, Change of Control or other transaction (including a Plan) that is acceptable to the Purchasers (each, an “**Approved Transaction**”) by November 12, 2013, or such other date as the Issuer and the Purchasers may agree, or the Purchasers shall be satisfied with the status of the Restructuring Alternative.
- (g) The Issuer and the Guarantors shall maintain at all times adequate insurance coverage of such kind and in such amounts and against such risks as is prudent for a business of an established reputation with financially sound and reputable insurers in coverage and scope acceptable to the Purchasers, with appropriate endorsements in favour of the Collateral Agent.
- (h) The Issuer or the CRO shall deliver to each of the Purchasers and/or such representatives as may be reasonably designated by the Purchasers:
 - (i) a refreshed Cash Flow Forecast in respect of the 13-week period beginning on the last day of the then applicable Current Cash Flow Period, which shall be delivered no less than ten (10) Business Days prior to the end of such Current Cash Flow Period and shall be acceptable to the Purchasers no less than five (5) Business Days prior to the end of such 13-week period;
 - (ii) on the fourth Business Day of every second week, a report as to the Issuer’s and each Guarantor’s actual cash flows for the immediately preceding two-week period, accompanied by a variance analysis explaining how and why actual results for such immediately preceding two-week period varied from the applicable weeks in the Cash Flow Forecast;
 - (iii) on the first Business Day of each month, a monthly financial report (including a balance sheet, a statement of changes in working capital and any other financial statements produced by the Issuer and approved by the Issuer’s board of directors) with respect to the Issuer and the Guarantors;
 - (iv) on the first Business Day of each week, updates and plans from the Issuer’s advisors or the CRO regarding any Potential Transaction or Restructuring Alternative;

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- (v) concurrently with the delivery thereof pursuant to the terms of the Bridge Notes NPA, copies of any information delivered to the holders of the Bridge Notes;
 - (vi) notice forthwith upon the Issuer, any Guarantor or the CRO determining that there will be a material change from the Cash Flow Forecast, or of any other material developments with respect to the business and affairs of the Issuer or any Guarantor;
 - (vii) notice forthwith upon the Issuer, any Guarantor or the CRO receiving notice from any creditor, landlord or other third party delivering a notice of default, demand, acceleration or enforcement in respect of any material obligation of the Issuer or any Guarantor;
 - (viii) notice forthwith and copies to Goodmans of, any material developments in respect of any Potential Transaction, Approved Transaction or Restructuring Alternative and discussion papers, term sheets, letters of intent, commitment letters, offers or agreements received by or entered into by any of the Issuer, any Guarantor or the CRO after the date hereof, relating to a Potential Transaction, provided that such documents shall not be provided by Goodmans to the Purchasers without the prior consent of the Issuer;
 - (ix) notice forthwith of any event or occurrence that, with notice or the passage of time or both, would be an Event of Default hereunder (a “**Default**”); and
 - (x) such other information as may be requested by the Purchasers or Goodmans from time to time acting reasonably.
- (i) The Purchasers shall have the right to engage at any time a financial advisor to assist them in relation to the DIP Notes or any Potential Transaction or Restructuring Alternative, and all reasonable and documented fees of such advisor shall be payable by the Issuer.
 - (j) The Purchasers shall be entitled to have an observer attend all board and committee meetings of the Issuer or any of the Guarantors and any such observer shall have all information disclosure rights that existing board members have.
 - (k) Subject to Section 13(l), neither the Issuer nor any Guarantor shall be entitled to make any Distribution or Affiliate Payment, other than a Distribution or Affiliate Payment that is approved by the Purchasers in advance.
 - (l) Neither the Issuer nor any Guarantor shall make an interest payment in respect of the Senior Notes unless such interest payment is approved by the Purchasers in advance, provided that, if any such interest payment is not approved by the Purchasers, the Issuer and the Guarantors shall not make any interest payment in

respect of the Bridge Notes until such time as the outstanding interest payment in respect of the Senior Notes has been made.

- (m) Neither the Issuer nor any Guarantor shall make payments in respect of any of its pre-petition obligations unless such payment is approved by the Purchasers in advance.
- (n) Neither the Issuer nor any Guarantor shall provide, or seek or support a motion by another party to provide, "critical supplier" status pursuant to the CCAA to any party without the prior written consent of the Purchasers.
- (o) Neither the Issuer nor any Guarantors shall make any capital expenditures except to the extent such expenditures are specifically listed in the Cash Flow Forecast.
- (p) Neither the Issuer nor any Guarantors shall amalgamate, consolidate with or merge into or sell all or substantially all of their assets to another entity, or change the nature of their business or their corporate or capital structure (except as contemplated by a Plan acceptable to the Purchasers) or enter into any agreement committing to such actions, in each case without the prior written consent of the Purchasers.
- (q) Neither the Issuer nor any Guarantors shall create, incur or Guarantee any Indebtedness for borrowed money other than Indebtedness and Guarantees existing on the date hereof that have been disclosed in writing to the Purchasers and Indebtedness contemplated by this Agreement.
- (r) Neither the Issuer nor any Guarantors shall make any new Investments or acquisitions of any kind, direct or indirect.
- (s) Neither the Issuer nor any Guarantors shall create or incur any Liens other than Permitted Liens.
- (t) The Issuer shall pay the reasonable and documented fees of the Advisors, in each case within five (5) Business Days of the receipt of any invoice from any such Advisor, and shall pay the reasonable and documented fees of the legal advisors to the Bridge Notes Purchasers within five (5) Business Day of the receipt of the proceeds from the issuance of the Initial DIP Notes.
- (u) The Issuer shall require all invoices in respect of Professional Fees to be submitted on a weekly basis, and such invoices shall be subject to review and approval by the CRO prior to payment thereof.
- (v) The Issuer and the Guarantors shall not participate in any material discussions with any party (other than their legal and financial advisors) with respect to the CCAA Proceeding or any Potential Transaction or Restructuring Alternative, in each case (upon conferring with their financial advisor) without providing reasonable notice to the Purchasers and Goodmans, and an opportunity for a representative of Goodmans or the financial advisor to the Purchasers to participate in such discussions.

- (w) The Issuer and the Guarantors shall not participate in any material discussions with the regulators relating to the CCAA Proceeding or any Potential Transaction or Restructuring Alternative without providing the Purchasers with a reasonable opportunity to participate in such discussions unless a regulator explicitly requests a discussion without the Purchasers present, in which case the Issuer and the Guarantors shall provide the Purchasers with advance notice and an opportunity for Goodmans to participate in such a discussion on an external counsel basis, and agree with Goodmans in advance regarding the conduct and nature of such discussions provided that the Issuer and the Guarantors or their advisors shall, following such discussion, advise the Purchasers of the content of those discussions aside from external counsel only matters.
- (x) The Issuer and the Guarantors shall promptly (and in any event within 24 hours of receipt by any of them) notify the Purchasers and Goodmans, at first orally and thereafter in writing, of any proposal in respect of any Potential Transaction, in each case received after the date hereof, of which it or any of its representatives are or become aware, or any amendments to such proposal in respect of any Potential Transaction, any request for material discussions or negotiations, or any request for non-public information relating to the Issuer or any Guarantor in connection with such Potential Transaction or for access to the books or records of the Issuer or any Guarantor by any person that informs the Issuer or any Guarantor that it is considering making, or has made, a proposal with respect to any Potential Transaction and any amendment thereto; and the Issuer shall promptly provide to the Purchasers and Goodmans a description of the material terms and conditions of any such proposed Potential Transaction or request. The Issuer and the Guarantors shall keep the Purchasers and Goodmans informed of any material change to the material terms of any such proposed Potential Transaction.
- (y) Neither the Issuer nor the Guarantors shall increase compensation or severance entitlements or other benefits payable to directors, senior officers or senior management (including by way of a "KERP"), or pay any bonuses or severance payments whatsoever, if not approved in advance by the Purchasers or as required by law.
- (z) The Issuer and the Guarantors shall operate their businesses in the ordinary course of business, having regard to the current financial condition of the Issuer and the Guarantors, and, in any event, neither the Issuer nor the Guarantors shall make a public announcement in respect of, enter into any agreement or letter of intent with respect to, or attempt to consummate, or support an attempt to consummate by another party, any transaction or agreement outside the ordinary course of business, if not approved in advance by the Purchasers.
- (aa) Following a reasonable advance request by the Purchasers or Goodmans, the Issuer and each Guarantor, as applicable, shall, to the extent permitted by law and the terms of any contractual confidentiality obligations, and subject to and in accordance with the terms of the Noteholder Confidentiality Agreement:

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- (i) provide the Purchasers and/or Goodmans with reasonable access to its books and records for use in connection with the transactions contemplated by this Agreement; and
 - (ii) make its officers and legal and financial advisors available on a reasonable basis for any discussions with the Purchasers and/or Goodmans.
- (bb) Any changes to composition (including addition, removal or replacement of directors or officers) of the board of directors or the officers (including the CRO) of the Issuer or any Guarantor shall be acceptable to the Purchasers, acting reasonably.
- (cc) None of the Issuer or any Guarantor shall enter into, or permit any amendment to, any shareholders agreement in respect of it.
- (dd) Without the prior written consent of the Purchasers, Holdings shall not, to the extent it is required to do so, consent to, or take any steps in furtherance of the exercise of any conversion right under the Convertible Debentures or any Equity Securities or Convertible Securities issued by it.
- (ee) Holdings shall immediately notify the Purchasers and their Advisors, at first orally and thereafter in writing, as soon as it has become aware of any intention of any of holder of any Equity Securities or Convertible Securities issued by Holdings to exercise any conversion right under such Equity Securities or Convertible Securities issued by it, other than in respect of the notice of conversion issued by Quadrangle on January 31, 2013 which has been previously disclosed.
- (ff) Without the prior written consent of the Purchasers, Holdings shall not consent to, or prescribe any conditions precedent to, any transfer of the Convertible Debentures by Quadrangle.
- (gg) Immediately upon receipt thereof, Holdings shall notify the Purchasers and Goodmans, at first orally and thereafter in writing, of any notice it has received from Quadrangle notifying Holdings of Quadrangle's intent to transfer the Convertible Debentures.
- (hh) Neither the Issuer nor the Guarantors shall transfer, lease, license or otherwise dispose of all or any part of its property, assets or undertaking aggregating over \$500,000 without the consent of the Purchasers, except pursuant to a Potential Transaction which has been approved by the Purchasers.
- (ii) Neither the Issuer nor the Guarantors shall enter into, extend, renew, waive or otherwise modify in any material respect the terms of any transaction with an Affiliate, or extend or renew existing operational arrangements without the prior approval of the Purchasers or as permitted under the Initial Order.
- (jj) The Issuer and the Guarantors shall discuss in good faith any additional funding requirements that the Issuer may have in connection with the deadline for receipt

of applications to participate and deposits in respect of the spectrum auction currently scheduled for January 14, 2014 (as such date may be amended).

- (kk) Each of the Ericsson Agreement, the Amdocs Agreement and the Ingram Agreement shall be amended and restated or otherwise addressed pursuant to the CCAA by no later than November 12, 2013, or such other date as the Issuer and the Purchasers may agree, in a manner satisfactory to the Purchasers.

14. EVENTS OF DEFAULT

14.1 Each of the following shall constitute an event of default hereunder and under the DIP Notes and the Security Documents (each, an “**Event of Default**”):

- (a) the failure to pay any principal amount outstanding under the DIP Notes when the same shall become due and payable hereunder;
- (b) the failure to pay any interest on the DIP Notes or any fees or other amounts payable by the Issuer or any Guarantor pursuant to this Agreement or any other DIP Document within 2 Business Days after the same shall become due and payable hereunder or thereunder as the case may be;
- (c) the failure by the Issuer or any Guarantor to pay the reasonable and documented fees to the Purchasers’ Advisors within 5 Business Days of the receipt of any invoice from any such party;
- (d) the failure by the Issuer or any Guarantor to perform or comply with any term, condition, covenant or obligation contained herein (other than the items set out in paragraphs (a), (b) and (c) above), in the DIP Notes or in any other DIP Document or any other document delivered pursuant to the terms hereof or thereof or in connection herewith or therewith on their part to be performed or complied with and, to the extent capable of being remedied, such failure remains unremedied for 5 Business Days;
- (e) if any representation, warranty or other statement of the Issuer or any Guarantor made or deemed to be made in this Agreement, any other DIP Document or in any other document delivered pursuant to the terms thereof or in connection therewith shall prove untrue in any material respect as of the date made or deemed to be made;
- (f) the failure by the Issuer or any Guarantor to pay any amounts due under or perform or comply with any term, condition, covenant or obligation contained in the Senior Indenture, the Bridge Notes NPA, the Senior Unsecured Indenture or the Quadrangle Commitment, in each case except where enforcement is stayed by the order of the CCAA Court;
- (g) except as stayed by order of the Court, the occurrence of a default or an event of default under any Indebtedness for borrowed money of the Issuer or any Guarantor, including for greater certainty under the Senior Indenture, the Bridge Notes NPA, the Senior Unsecured Indenture or the Quadrangle Commitment;

- (h) except as stayed by order of the Court, a default under, revocation or cancellation of, any Material Contract which has or could reasonably be expected to result in a Material Adverse Effect;
- (i) the existence of (i) an adverse variance of actual cash flow from the Cash Flow Forecast by an amount exceeding 10% in respect of any preceding four week period as reflected in the Cash Flow Forecast, provided that the amount of all professional fees paid during such period (including any amounts paid to the Purchasers' Advisors) and the amount of any interest payment not made pursuant to Section 13(l) shall be excluded solely for the purposes of such calculation, or (ii) the occurrence of any other Material Adverse Effect with respect to the business and affairs of the Issuer or any Guarantor;
- (j) the existence of an adverse variance of actual Professional Fees of any advisor from the amount set out therefor in the Cash Flow Forecast by an amount exceeding 15% in respect of any preceding four week period as reflected in the Cash Flow Forecast, provided that such an adverse variance in respect of the Professional Fees of the Monitor and legal counsel to the Monitor shall be subject to an order of the CCAA Court prior to being taken into account for the purposes of this paragraph;
- (k) any change to the composition (including addition, removal or replacement of directors or officers) of the board of directors or officers of the Issuer or any Guarantor that is not acceptable to the Purchasers, acting reasonably;
- (l) the removal, termination, replacement or change in the scope or extent of the authority of the CRO, without the prior consent of the Purchasers, acting reasonably;
- (m) any change, other than through the exercise of conversion rights under the Shareholders Agreement, the Quadrangle Commitment, the Convertible Debentures or other Convertible Securities without the consent of the Issuer or any Guarantor or the issuance of warrants pursuant to the Senior Unsecured Indenture, to (i) the legal or beneficial ownership (whether direct or indirect) of the Equity Securities issued by the Issuer or any Guarantor, or any Convertible Securities of the Issuer or any Guarantor, or rights thereto or (ii) the voting control of the Issuer or any Guarantor, from that disclosed in Sections 12(i) and 12(j) hereof;
- (n) the cessation (or threat of cessation) by the Issuer or any Guarantor to carry on business in the ordinary course, having regard to the current financial condition of the Issuer and the Guarantors, without the prior consent of the Purchasers;
- (o) the denial or repudiation by the Issuer or any Guarantor of the legality, validity, binding nature or enforceability of this Agreement, the other DIP Documents or any other document or certificate delivered pursuant to the terms hereof or thereof;

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- (p) the cessation of any of the Security Documents to constitute, in whole or in part, a Lien on the Collateral in the priority contemplated by this Agreement without the prior consent of the Purchasers;
- (q) except as stayed by order of the CCAA Court, the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$5,000,000 against the Issuer or any Guarantor or the Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy;
- (r) the CCAA Proceeding shall be dismissed without a sanctioned Plan or converted to a receivership, proposal in bankruptcy or a bankruptcy proceeding other than in connection with an Approved Transaction which has been approved by all of the Purchasers;
- (s) the appointment of any receiver, receiver-manager, interim receiver, monitor (other than in connection with the CCAA Proceedings), liquidator, assignee, custodian, trustee, sequestrator or other similar entity in respect of the Issuer or any Guarantor (or any of their subsidiaries) or all or any part of their respective property, assets or undertaking other than in connection with a Plan or other Potential Transaction or Restructuring Alternative which has been approved by all of the Purchasers;
- (t) other than in connection with the CCAA Proceeding, the act of the Issuer or any Guarantor (i) making a general assignment for the benefit of its creditors, including without limitation, any assignment made pursuant to the BIA, (ii) acknowledging its insolvency or is declared or becomes bankrupt or insolvent, (iii) failing to meet its liabilities generally as they become due, or (iv) committing an act of bankruptcy under the BIA or any similar law of any jurisdiction;
- (u) the Initial Order (or any other order of the CCAA Court in respect of this Agreement, the DIP Notes, any of the DIP Documents or the DIP Charge) is dismissed, stayed, reversed, vacated, or amended and such dismissal, stay, reversal, vacating or amendment adversely affects or could reasonably be expected to adversely affect the interests of the Purchasers in any manner, unless in the case of any of the foregoing, the Purchasers have consented thereto in writing;
- (v) any order is entered, or any Plan is sanctioned, that is not consistent with any provision of this Agreement, the DIP Notes, any of the DIP Documents or the DIP Charge in a manner that is adverse to the interests of the Purchasers or could reasonably be expected to adversely affect the interests of the Purchasers, unless in the case of any of the foregoing, the Purchasers have consented thereto in writing;
- (w) any proceeding, motion or application shall be commenced or filed by the Issuer or any Guarantor, or if commenced by another party, supported or otherwise consented to by the Issuer or any Guarantor, seeking: (i) the invalidation,

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subordination or other challenging of the terms and provisions of this Agreement, the DIP Notes, any of the DIP Documents or the DIP Charge; or (ii) approval of any Potential Transaction or Restructuring Alternative which does not have the prior consent of the Purchasers; or

- (x) the Issuer or any Guarantor seek to approve or consummate any Potential Transaction or Restructuring Alternative which does not have the prior consent of all of the Purchasers.

15. REMEDIES

Subject to Section 7.4, following the occurrence of an Event of Default, without limiting the remedies available under the Security Documents or hereunder, the Purchasers and/or the Collateral Agent may:

- (a) on demand, accelerate all payments due by the Issuer hereunder, and set off amounts owing by the Purchasers to the Issuer against amounts owing by the Issuer to the Purchasers;
- (b) apply to a court (i) for the appointment of an interim receiver or a receiver and manager of the undertaking, property and assets of the Issuer or any Guarantor, (ii) for the appointment of a trustee in bankruptcy of the Issuer or any Guarantor, or (iii) to seek other relief; or
- (c) without limiting the foregoing, the Collateral Agent and the Purchasers shall have the power and rights of a secured party under section 17 and Part V of the *Personal Property Security Act* (Ontario).

16. GUARANTEE

16.1 Subject to this Article 16, each of the Guarantors hereby, jointly and severally, unconditionally guarantees to each Purchaser and its successors and assigns, irrespective of the validity and enforceability of this Agreement, the DIP Notes or the obligations of the Issuer hereunder or thereunder, that:

- (a) the principal of, premium, if any, interest and fees on, the DIP Notes will be promptly paid in full when due, whether at maturity, by acceleration, redemption or otherwise, and interest on the overdue principal of and interest on the DIP Notes, if any, if lawful, and all other obligations of the Issuer to the Purchasers or the Collateral Agent under this Agreement, the DIP Notes and any other DIP Document will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and
- (b) in case of any extension of time of payment or renewal of any DIP Notes or any other obligations, that same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration or otherwise.

Failing payment when due of any amount so guaranteed or any performance so guaranteed for whatever reason, the Guarantors will be jointly and severally obligated to pay the same immediately. The liability of each Guarantor shall bear interest from the date any such amount so guaranteed was due at the rate or rates of interest then applicable to such obligations or amount under and calculated in the manner provided in this Agreement.

Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

- 16.2** The Guarantors hereby agree that their obligations hereunder are unconditional, irrespective of (i) any bankruptcy or insolvency proceeding with respect to the Issuer or any of its Affiliates or any other Person; (ii) any limitation, discharge, or cessation of the liability of the Issuer or any other Person for any obligations under this Agreement, the DIP Notes or any other DIP Document due to any statute, regulation or rule of law, or any invalidity or unenforceability in whole or in part of any of obligations thereunder; (iii) any sale, lease, transfer or other disposition of any or all of the assets of the Issuer, any of its Affiliates or other Person, including any sale of any interest in the Issuer; (iv) any claim, defence, counterclaim or setoff, other than that of prior performance, that the Issuer, any of its Affiliates, or any other Person may have or assert, including any defence of incapacity or lack of capacity to execute or deliver this Agreement or any other DIP Document; (v) the Purchasers' vote, claim, distribution, election, acceptance, action or inaction in any bankruptcy or insolvency proceeding related to the obligations guaranteed by this Guarantee; (vi) any change in the name, objects, Equity Securities or constitution of the Issuer or any of its Affiliates, (vii) any waiver, release, extension, renewal, settlement, surrender, alteration or compromise of any of this Agreement, the DIP Notes, or any of the Collateral, now or hereafter acquired by the Issuer in which a security interest shall exist in favour of any of the Collateral Agent or the Purchasers to secure the obligations guaranteed by this Guarantee, whether by operation of law or otherwise; (viii) the Collateral Agent's or any Purchaser's exercise or non-exercise of any power, right or remedy with respect to any of the Collateral, including the Purchasers' compromise, release, settlement or waiver with or of any of the Issuer or any other Person; (ix) any impairment or invalidity of any of the Collateral or any failure to perfect any of the Collateral Agent's or any Purchaser's security interests thereon or therein; and (x) any other Guarantee, whether by any Affiliate of the Issuer or any other Person, of all or any part of the obligations guaranteed by this Guarantee or any other Indebtedness, obligations or Liabilities of Issuer to the Purchasers. Each Guarantor hereby waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Issuer, any right to require a proceeding first against the Issuer, protest, notice and all demands whatsoever and covenant that this Guarantee will not be discharged except by complete performance of the obligations contained in the DIP Notes and this Agreement.
- 16.3** The Collateral Agent and the Purchasers shall not be bound to exhaust their recourse against the Issuer or any other Person being entitled to payment under this Guarantee and each Guarantor renounces all benefits of discussion and division.

- 16.4** If any Purchaser or the Collateral Agent is required by any court or otherwise to return to the Issuer, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to either the Issuer or the Guarantors, any amount paid by either to the Collateral Agent or such Purchaser, this Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.
- 16.5** Each Guarantor agrees that it will not be entitled to any right of subrogation in relation to the Purchasers in respect of any obligations guaranteed hereby until payment in full of all obligations guaranteed hereby. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Purchasers and the Collateral Agent, on the other hand, (1) the maturity of the obligations guaranteed hereby may be accelerated as provided herein for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the obligations guaranteed hereby, and (2) in the event of any declaration of acceleration of such obligations as provided herein, such obligations (whether or not due and payable) will forthwith become due and payable by the Guarantors for the purpose of this Guarantee. The Guarantors will have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Purchasers under this Guarantee.
- 16.6** Until all of the obligations guaranteed under this Guarantee have been paid in full, each Guarantor irrevocably waives any rights which it may have at any time by reason of the performance of any of its obligations under this Guarantee (i) to be indemnified by the Issuer, (ii) to claim contribution from any other Guarantor of the debts, liabilities or obligations of the Issuer, or (iii) to take the benefit (in whole or in part whether by way of subrogation or otherwise) of any rights of the Collateral Agent or the Purchasers under this Agreement, the DIP Notes or any other DIP Document.
- 16.7** Each Guarantor, and by its acceptance of DIP Notes, each Purchaser, hereby confirms that it is the intention of all such parties that the Guarantee of such Guarantor not constitute a fraudulent transfer or conveyance for purposes of the BIA, the CCAA, the *Winding-up and Restructuring Act (Canada)* or any similar federal or provincial law to the extent applicable to any Guarantee. To effectuate the foregoing intention, the Collateral Agent, the Purchasers and the Guarantors hereby irrevocably agree that the obligations of such Guarantor will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under this Article 16, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent transfer or conveyance.
- 16.8** The Guarantors hereby expressly and irrevocably subordinate to the payment of the obligations of the Issuer hereunder and under the DIP Notes, any and all rights at law or in equity to reimbursement, exoneration, contribution, indemnification or set-off and any and all defences available to a surety, guarantor or accommodation co-obligor until all of the obligations of the Issuer hereunder and under the DIP Notes are indefeasibly paid in full in cash and this Agreement has been terminated. The Guarantors further agree to waive any rights of subrogation arising at law or in equity.

16.9 This Guarantee is a continuing Guarantee, extending to all present and future obligations guaranteed hereby, and applying to and securing the ultimate balance of the amounts guaranteed hereby due or remaining due to the Collateral Agent and the Purchasers. This Guarantee shall be binding as a continuing obligation of each Guarantor until the Purchasers release such Guarantor in accordance with the terms of this Agreement. This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment of any of the amounts guaranteed hereby is rescinded or must otherwise be returned by the Collateral Agent or the Purchasers upon the insolvency, bankruptcy, or reorganization of the Issuer, all as though such payment has not been made.

17. EXPENSES

The Issuer and each Guarantor will and hereby does indemnify and save harmless each of the Purchasers and their respective Advisors from any loss or damage incurred as a result of entering into this Agreement or any other DIP Document or purchasing the DIP Notes, except for any loss or damage incurred as a result of the gross negligence or wilful misconduct of any of the Purchasers or their respective Advisors. All reasonable out-of-pocket expenses and costs, including, without limitation, all reasonable and documented legal and advisory fees, incurred by each of the Purchasers and their respective Advisors in connection with any matter arising hereunder or any documents issued in connection with this Agreement or any of the DIP Documents or otherwise in connection with the purchase of the DIP Notes shall be for the sole account of the Issuer and shall be paid within five (5) days of being invoiced.

18. TAXES

All payments by the Issuer and/or the Guarantors to any Purchaser, including without limitation any payments required to be made from and after the exercise of any remedies available to the Purchasers upon an Event of Default, shall, except as required by applicable law, be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country (collectively "**Taxes**"); provided, however, that if any Taxes (other than Excluded Taxes) are required by applicable law to be deducted or withheld ("**Withholding Taxes**") from any interest or other amount payable to any Purchaser hereunder or under any other document delivered pursuant to the terms hereof, the amount so payable to such Purchaser shall be increased to the extent necessary to yield to the relevant party on a net basis after payment of all Withholding Taxes, the amount payable under such documentation at the rate or in the amount specified in such documentation and the Issuer shall provide evidence satisfactory to the Purchasers that the Taxes have been so withheld and remitted. Notwithstanding the foregoing, prior to an Event of Default, an assignee of a Purchaser shall not be entitled to any greater payment under this Article 18 than the Purchaser from which it received its assignment.

In addition, the Issuer and Guarantors shall reimburse and indemnify each Purchaser for any Withholding Taxes paid by such Purchaser within 10 days upon receiving evidence from the Purchaser that it has paid the Withholding Taxes, whether or not such Withholding Taxes were correctly or legally asserted. If a Purchaser determines, in its sole discretion exercised in good

faith, that it has received a refund of Withholding Taxes to which it has been indemnified and reimbursed by the Issuer and/or Guarantors, it shall pay to the relevant Issuer and/or Guarantor an amount equal to such refund, net of all out-of-pocket expenses (including any taxes) and without interest. Such indemnifying Issuer and/or Guarantor shall, upon request, repay to such Purchaser the amount paid over to the Issuer and/or Guarantor hereunder in the event that the Purchaser is required to repay such refund to a Government Entity.

19. DIP NOTES

19.1 Transfer and Exchange of DIP Notes

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

19.2 Replacement of DIP Notes

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

- (a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to the Issuer, or
- (b) in the case of mutilation, upon surrender and cancellation thereof,

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

19.3 DIP Notes Held by Issuer, etc.

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

20. MISCELLANEOUS

20.1 Further Assurances

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

20.2 Unrestricted Purchasers

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

20.3 Disclosure

No press release or other public disclosure concerning the transactions contemplated herein shall be made by the Issuer or Guarantors without the prior consent of the Purchasers (such consent not to be unreasonably withheld); *provided*, however, that the Issuer and Guarantors shall, after providing the Purchasers and their Advisors with copies of all related documents and an opportunity to consult with the Purchasers and their Advisors as to the contents, make prompt disclosure of the material terms of this Agreement and make such disclosure as may be required by applicable law, by any regulatory authority having jurisdiction over the Issuer and Guarantors, or by any court of competent jurisdiction. Notwithstanding the foregoing, no information with respect to the specific holdings of DIP Notes (or any other security of the Issuer or any of its affiliates) held by any Purchaser shall be disclosed by the Issuer or any Guarantor except as may be required by applicable law, by any regulatory authority having jurisdiction over the Issuer or the Guarantors, or by any court of competent jurisdiction.

20.4 Conflict

To the extent that there is any inconsistency between this Agreement and any of the other DIP Documents (other than the Initial Order or any other order of the CCAA Court that is a DIP Document), this Agreement shall govern.

20.5 Amendments and Waivers

This Agreement shall only be amended or waived with the consent of the Purchasers, in accordance with Article 5, and the Issuer and the Guarantors. Where any matter under this Agreement or the other DIP Documents requires the agreement, waiver, consent or approval by the Purchasers, confirmation of such agreement, waiver, consent or approval may be provided by Goodmans in writing on behalf of the Purchasers and the Issuer and the Guarantors may rely on such written confirmation from Goodmans on behalf of the Purchasers as conclusive evidence that the Purchasers have agreed, waived, consented to or approved a particular matter.

20.6 Assignments

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

20.7 Governing Law

- (a) This Agreement, the other DIP Documents or any other documents executed in connection therewith and each of the documents contemplated herein shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- (b) The Issuer and each Guarantor hereby consents and agrees that the CCAA Court shall have exclusive jurisdiction to hear and determine any claims or disputes between the Issuer, the Guarantors, the Collateral Agent and the Purchasers pertaining to this Agreement or any of the other documents related thereto or to any matter arising out of or relating to this Agreement or any of the other documents related thereto. The Issuer and each Guarantor expressly submits and consents in advance to such jurisdiction in any action or suit commenced in the CCAA Court, and the Issuer and each Guarantor hereby waives any objection that it may have based upon lack of personal jurisdiction, improper venue or *forum non conveniens* and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by the CCAA Court. The Issuer and each Guarantor hereby waives personal service of the summons, complaint and other process issued in any such action or suit and agree that service of such summons, complaints and other process may be made by registered mail (return receipt requested) addressed to it at the address set forth in Section 20.15 of this Agreement and that service so made shall be deemed completed upon the earlier of its actual receipt thereof or three (3) Business Days after deposit with Canada post, proper postage paid.

20.8 Currency

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

20.9 Exclusivity

Upon entering into this Agreement, the Issuer and each Guarantor agrees that it will not enter into bilateral arrangements with any party to provide any debt facility of any kind or similar financing arrangement, in each case for any purpose contemplated by this Agreement or any other similar purpose unless the consent of the Purchasers has been obtained.

20.10 Counterparts and Facsimile; Signatures

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same

instrument. Signatures provided by electronic transmission or facsimile shall be valid and binding.

20.11 Indemnity

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

20.12 No Waiver

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

20.13 Remedies

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

20.14 Severability

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

20.15 Notices

Except as otherwise provided herein, whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties by any other parties, or whenever any of the parties desires to give or serve upon any other parties any communication with respect to this Agreement, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be deemed to have been validly served, given or delivered:

- (a) upon the earlier of actual receipt and three (3) Business Days after deposit with Canada Post, registered mail, return receipt requested, with proper postage prepaid,
- (b) upon transmission, when sent by telecopy or other similar facsimile transmission (with such telecopy or facsimile promptly confirmed by delivery of a copy by personal delivery or with Canada Post as otherwise provided in this Section 20.15),
- (c) upon receipt, when sent by electronic mail (with such electronic mail promptly confirmed by delivery of a copy by personal delivery or Canada Post as otherwise provided in this Section 20.15) and such notice, demand, request, consent, approval, declaration or other communication shall be in "pdf" format and shall include the actual signature of the party sending such communication if that signature would be required or customary if the communication was delivered by telecopier,
- (d) one (1) Business Day after deposit with a reputable courier for overnight delivery with all charges prepaid, or
- (e) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address or facsimile number indicated Schedule B hereto or to such other address (or facsimile number) as may be substituted by notice given as herein provided.

The giving of any notice required hereunder may be waived in writing by the party entitled to receive such notice. Failure or delay in delivering copies of any notice, demand, request, consent, approval, declaration or other communication to any Person (other than the Issuer or Collateral Agent) designated on Schedule B to receive copies shall in no way adversely affect the effectiveness of such notice, demand, request, consent, approval, declaration or other communication.

20.16 Section Titles

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

20.17 Reinstatement

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

20.18 No Strict Construction

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

20.19 Permitted Liens

Except as otherwise expressly provided in this Agreement with respect to Liens granted in favour of the Senior Agent as security for the Senior Notes or with respect to the charges granted by the CCAA Court in the CCAA Proceedings in accordance with the rankings set out in Article 7, the designation of any Lien as a Permitted Lien is not, and shall not be deemed to be, an acknowledgment by the Collateral Agent or any of the Purchasers that the Lien shall have priority over the security interests granted to the Collateral Agent for the benefit of itself and the Purchasers in the Collateral pursuant to the Security Documents.

20.20 Signing Authority

Each Signatory has delivered a letter to the Issuer dated as of the date hereof (each a “**Signing Authority Letter**”) confirming its authority to sign this Agreement and all other DIP Documents for and on behalf of the Purchasers listed on Schedule A to such Signatory’s Signing Authority Letter.

20.21 Collateral Agent

The Collateral Agent is a party to this Agreement solely in its capacity as collateral agent pursuant to the terms the Collateral Agency Agreement, and has not, by entering into this Agreement, assumed any obligations or liabilities other than those contained in the Collateral Agency Agreement. To the extent that there is any inconsistency between any term of this Agreement and the Collateral Agency Agreement, insofar as such inconsistency affects the Collateral Agent, the Collateral Agency Agreement shall govern.

20.22 Principles of Construction

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

20.23 Purchaser Identity and Holdings

The Issuer and the Guarantors agree, on their own behalf and on behalf of their Representatives, to maintain the confidentiality of the identity and, to the extent known, specific holdings of the Purchasers; provided, however, that such information may be disclosed: (a) to the Issuer's and Guarantors' respective directors, trustees, executives, officers, auditors, and employees and financial and legal advisors or other agents (collectively referred to herein as the **"Representatives"** and individually as a **"Representative"**) and provided further that each such Representative is informed of, and agrees to abide by, this confidentiality provision; and (b) to Persons in response to, and to the extent required by, (i) any subpoena, or other legal process, including, without limitation, by a court of competent jurisdiction or applicable rules, regulations or procedures of such court, (ii) any Governmental Entity, or (iii) applicable Law. If the Issuer, the Guarantors or their Representatives are required to disclose the identity or specific holdings of a Purchaser in the manner set out in the preceding sentence, the Issuer and/or the Guarantors shall provide such Purchaser with prompt written notice of any such requirement, to the extent permissible and practicable under the circumstances, so that such Purchaser may (at the Issuer's expense) seek a protective order or other appropriate remedy or waiver of compliance with the provisions of this Agreement. Notwithstanding the provisions in this Section or elsewhere in this Agreement: (x) the Issuer and/or the Guarantors may disclose the identity of a Purchaser if necessary in connection with any action to enforce this Agreement against such Purchaser (and only to the extent necessary to enforce this Agreement against such Purchaser), (y) the Issuer and/or the Guarantors may disclose the identity or a Purchaser's specific holdings to the extent consented to in writing by a Purchaser (or by such Purchaser's duly authorised advisor) and (z) the Issuer and/or the Guarantors may disclose the identity of a Signatory.

[Remainder of this page is intentionally left blank.]

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC., as Issuer**

Per: _____

Name:

Title:

**DATA & AUDIO-VISUAL ENTERPRISES
HOLDINGS INC., as a Guarantor**

Per: _____

Name:

Title:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**SCHEDULE A
PURCHASERS' COMMITMENTS**

[REDACTED]

**SCHEDULE B
NOTICES**

If to the Issuer or any Guarantor

Data & Audio-Visual Enterprises Wireless Inc.
101 Exchange Ave
Vaughan, Ontario, L4K 5R6

Attn: William Aziz
Fax: 416.650.9706
E-mail: baziz@bluetreeadvisors.com

and a copy to:

Norton Rose Fulbright Canada LLP
Royal Bank Plaza, South Tower, Suite 3800
200 Bay Street, P.O. Box 84
Toronto, ON
M5J 2Z4

Attn: Walied Soliman
Fax: 416.216.3930
E-mail: walied.soliman@nortonrosefulbright.com

If to any Purchaser:

Goodmans LLP
333 Bay Street, Suite 3400
Toronto, Ontario, M5H 2S7

Attn: Rob Chadwick/Dan Dedic
Fax: 416.979.1234
E-mail: rchadwick@goodmans.ca/ddedic@goodmans.ca

**SCHEDULE C
DEFINITIONS**

Defined Term	Section Number
Advisor Retainers	12(f)
Affiliate Payments	12(p)
Agreement	Preamble
Appendices	20.22(c)
Approved Transaction	13(f)
Business Day	10.1
CCAA	Preamble
CCAA Court	Preamble
CCAA Proceeding	Preamble
Closing Date	2.2
Collateral	12(v)
Collateral Agent	Parties
Commitment	3.1
Company Permits	12(t)(i)
Criminal Code interest	10.3(a)
criminal rate	10.3(a)
CRTC	12(t)(i)
Default	13(h)(ix)
DIP Funding Fee	3.4
DIP Notes	2.1
Event of Default	14.1
Excess Amount	10.3(a)
Final DIP Notes	11.2
Fourth Tranche DIP Notes	11.2
Guarantors	Parties
Indemnified Liabilities	20.11
Indemnified Person	20.11
Initial Closing Date	2.2
Initial DIP Funding Fee	3.4
Initial Sub-Tranche	11.1
Interest Rate	3.3
Issuer	Parties
Lien	6.2
Maturity Date	8.1
Permitted Liens	11.1(e)
Purchase Price	2.1
Representative(s)	20.23
Second Tranche DIP Notes	11.2
Security	6.1
Security Documents	11.1(e)
Signing Authority Letter	20.20
Subsequent DIP Funding Fee	3.4

Defined Term	Section Number
Subsequent Tranche Closing Date	2.2
Subsequent Sub-Tranche	11.2
Subsequent Tranche of DIP Notes	11.2
Taxes	18
Third Tranche DIP Notes	11.2
Total Commitment	3.1
Withholding Taxes	18

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

“Administration Charge” means the CCAA Court ordered administration charge granted in the Initial Order in an amount to be agreed upon by the Issuer and the Purchasers.

“Advisors” means the legal and financial advisors to the Purchasers.

“Affiliate” means (a) any Person which, directly or indirectly, Controls, is Controlled by or is under common Control with any other Person; (b) any Person which beneficially owns or holds, directly or indirectly, 10% or more of any class of voting stock or equity interest (including partnership interests) of any other Person; (c) any Person, 10% or more of any class of the voting stock (or if such Person is not a corporation, 10% or more of the equity interest, including partnership interests) of which is beneficially owned or held, directly or indirectly, by any other Person; or (d) any Person related within the meaning of the *Income Tax Act* (Canada) to any such Person and includes any “Affiliate” within the meaning specified in the CBCA on the date hereof.

“Amdocs Agreement” means the Master Services Agreement between Data & Audio-Visual Enterprises Wireless Inc., Amdocs Canadian Manages Services, Inc. and Amdocs Software Systems Limited dated October 15, 2009, as amended.

“BIA” means the *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, c. B-3, as amended.

“Bridge Notes” means the senior secured second lien notes issued under the Bridge Notes NPA, plus all interest and fees thereon owed pursuant to the Bridge Notes NPA.

“Bridge Notes Agent” means Equity Financial Trust Company as collateral agent under the Bridge Notes NPA.

“Bridge Notes NPA” means the note purchase, guarantee and backstop agreement dated as of February 6, 2013, as amended, restated, supplemented or otherwise modified from time to time.

“Bridge Notes Purchasers” means the Purchasers under the Bridge Notes NPA.

“Bridge Notes Security” means the security interests granted by the Issuer and each Guarantor in all of the property, assets and undertaking of the Issuer and the Guarantors to the Collateral Agent for the benefit of itself and the Bridge Note Purchasers in connection with the Bridge Notes NPA, the Bridge Notes and the Transaction Documents (as such term is defined in the Bridge Notes NPA).

“Bridge Obligations” means any and all amounts now or hereafter owing by the Issuer and/or the Guarantors to the Purchasers pursuant to the Bridge Notes NPA or any other Transaction Document (as such term is defined in the Bridge Notes NPA) (including all principal, interest, fees, expenses, the Liquidity Payment (as such term is defined in the Bridge Notes NPA), indemnities and any other amounts).

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

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

“Cash Flow Forecast” means the weekly cash flow forecast for the Issuer and the Guarantors for the first 13 weeks after the Initial Closing Date, as the same shall be updated pursuant to Section 13(h), and in each case approved by the Purchasers, which cash flow forecast shall contain, among all other items, a specific delineation of all anticipated Professional Fees, presented on a weekly basis for each advisor.

“CBCA” means the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44, as amended.

“Change of Control” means any change in the legal or beneficial ownership of more than fifty percent (50%) of the voting Equity Securities of the Issuer or any Guarantor in one or more related transactions.

“Collateral Agency Agreement” means the collateral agency agreement dated as of the date hereof by and among the Purchasers, the Collateral Agent, the Issuer and the Guarantors.

“Contracts” means all agreements, contracts, leases (whether for real or personal property), purchase orders, undertakings, covenants not to compete, employment agreements, confidentiality agreements, licenses, instruments, obligations and commitments to which a Person is a party or by which a Person or any of its assets are bound or affected, whether written or oral.

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

“Convertible Debentures” means any debentures or other similar debt instruments issued to Quadrangle or its affiliates by Holdings, including any debentures issued under the Quadrangle Commitment.

“Convertible Securities” means warrants, options or other securities of a Person convertible into Equity Securities of such Person.

“CRO” means Blue Tree Advisors II Inc. (or such other persons appointed to be the Chief Restructuring Officers of the Issuer and the Guarantors as may be acceptable to the Purchasers, acting reasonably).

“Current Cash Flow Period” means, at any time, the 13-week period covered by the most recently delivered Cash Flow Forecast.

“DIP Charge” means the CCAA Court ordered charge to be granted in the Initial Order to secure payment of the Obligations.

“DIP Documents” means this Agreement, the DIP Notes, the Security Documents, the Collateral Agency Agreement, the Perfection Certificate, the Disclosure Letter, the Initial Order and any other order of the CCAA Court with respect to this Agreement and/or the DIP Notes, and all other documents or instruments delivered pursuant to the terms of this Agreement and/or the DIP Notes or in connection with this Agreement and/or the DIP Notes.

“Directors’ Charge” means the CCAA Court ordered directors’ charge granted in the Initial Order in an amount to be agreed upon by the Issuer and the Purchasers.

“Disclosure Letter” means a letter from the Issuer and the Guarantors to the Purchaser’s counsel, Goodmans dated the date hereof and attached as Schedule F hereto, all or any portion of which Goodmans shall be entitled to share with one or more Purchasers.

“Distribution” means the retirement, redemption, retraction, purchase, repayment or other acquisition of any Equity Securities or Indebtedness of any Person; the declaration or payment of any dividend, return of capital or other distribution of, on or in respect of Equity Securities of any Person; or any other payment or distribution (in cash, securities or other property or otherwise) of, on or in respect of any Equity Securities or Indebtedness of any Person or any of its subsidiaries.

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

“Ericsson Agreement” means the Master Services Agreement between Ericsson Canada Inc. and Data & Audio-Visual Enterprises Wireless Inc., effective March 31, 2010, as amended.

“Excluded Taxes” means Taxes based upon or measured by a Purchaser’s overall net income, capital, net receipts or net profits or franchise taxes imposed in lieu thereof, and imposed by a taxing authority in a jurisdiction in which such Purchaser is organized, its principal office is located or it has its lending office in respect of which payments under the Agreement are made.

“Final Order” means, in respect of any order of the CCAA Court, that said order is in full force and effect and shall not have been stayed, reversed, vacated, rescinded, modified or amended in any respect (except as may be acceptable to the Purchasers), and any applicable appeal period in

respect thereof shall have expired or, if an appeal was filed, that such appeal shall have been dismissed on a final basis without further appeal.

“Financial Statements” means (a) the audited consolidated balance sheet of the Issuer and the Guarantors as at December 31, 2012 and the related audited consolidated statement of operations and comprehensive loss, consolidated statement of cash flows for each of the fiscal years then ended, together with the report thereon of independent certified public accountants, each prepared in accordance with GAAP consistently applied throughout the periods covered, and (b) an unaudited consolidated balance sheet of the Issuer and the Guarantors as of March 31, 2013, and the related unaudited consolidated statement of operations and comprehensive loss and consolidated statement of cash flows for such period, each prepared in accordance with GAAP consistently applied throughout the periods covered.

“GAAP” means International Financial Reporting Standards as in effect from time to time.

“Goodmans” means Goodmans LLP, solely in its capacity as legal counsel to the Purchasers in respect of this Agreement.

“Governmental Entity” means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

“Guarantee” of or by any Person (in this definition, the **“guarantor”**) means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (in this definition, the **“primary credit party”**) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof (whether in the form of a loan, advance, stock purchase, capital contribution or otherwise), (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital solvency, or any other balance sheet, income statement or other financial statement condition or liquidity of the primary credit party so as to enable the primary credit party to pay such Indebtedness or other obligation, (d) as an account party in respect of any letter of credit or letter of guarantee issued to support such Indebtedness or other obligation, or (e) to purchase, sell or lease (as lessor or lessee) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Indebtedness or to assure the holder of such Indebtedness against loss.

“Holdings” means Data & Audio-Visual Enterprises Holdings Inc.

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such

Person evidenced by bonds, debentures, DIP Notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guarantee, (j) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (k) all negative marked-to-market exposure of such Person under Swap Agreements, and (l) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value (other than for other Equity Securities) any Equity Securities in the capital of such Person, valued, in the case of redeemable Equity Securities, at the greater of voluntary or involuntary liquidation preference, plus accrued and unpaid dividends.

"Ingram Agreement" means the letter agreement entered into as of March 1, 2013 by and between Ingram Micro Inc. and Data & Audio-Visual Enterprises Wireless Inc.

"Initial DIP Notes" means the first tranche of DIP Notes to be issued pursuant to Section 11.1 of this Agreement in an aggregate principal amount equal to \$3,200,000.

"Initial Order" means an initial order granted by the CCAA Court in respect of the Issuer and the Guarantors, in form and substance satisfactory to the Purchasers, as the same may be amended by the CCAA Court or the Issuer and the Guarantors with the consent of the Purchasers.

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

"KERP Charge" means the CCAA Court ordered key employee retention charge granted in the Initial Order in an amount to be agreed upon by the Issuer and the Purchasers.

"Liability" or **"Liabilities"** means any direct or indirect liability, indebtedness, obligation, commitment, expense, claim, deficiency, guaranty or endorsement of or by any Person of any type, whether accrued, absolute, contingent, matured, unmatured liquidated, unliquidated, known or unknown.

"Material" means a fact, circumstance, change, effect, matter, action, condition, event, occurrence or development that, individually or in the aggregate, is, or would reasonably be

expected to be, material to the business, affairs, results of operations or financial condition of the Issuer and the Guarantors (taken as a whole).

“Material Adverse Effect” means an event, change or occurrence that, individually or together with any other event, change or occurrence, has a material adverse impact on (a) the financial condition, business or results of operations of the Issuer and the Guarantors (taken as a whole) and shall include, without limitation, the disposition by the Issuer or any Guarantor of any material asset without the prior consent of the Purchasers, (b) the ability of the Issuer or any of the Guarantors to perform their payment obligations under this Agreement, or (c) the rights and remedies of the Purchasers under this Agreement or any of the DIP Documents; provided, however, that a Material Adverse Effect shall not include, and shall be deemed to exclude the impact of: (A) changes in laws of general applicability or interpretations thereof by courts or governmental or regulatory authorities, (B) actions and omissions of the Issuer or any Guarantor taken with the prior written consent of the Purchasers, (C) the effects of compliance with this Agreement, including on the operating performance of the Issuer and the Guarantors, (D) the negotiation, execution, delivery, performance, consummation, potential consummation or public announcement of this Agreement or the transactions contemplated by this Agreement, including any litigation resulting therefrom or with respect thereto, and any adverse change in customer, distributor, employee, supplier, financing source, licensor, licensee, sub-licensee, shareholder, collaboration or joint venture partner or similar relationships resulting therefrom or with respect thereto, (E) any change or development in Canadian financial, credit or securities markets, general economic or business conditions, or political conditions, (E) any act of war, armed hostilities or terrorism or any worsening thereof, (F) any failure by the Issuer or any Guarantor to meet internal projections or forecasts or third party revenue or earnings predictions for any period (it being understood that any cause of any such failure may be taken into consideration when determining whether a Material Adverse Effect has occurred or is reasonably expected to occur), or (G) the terms of Industry Canada’s Framework Relating to Transfers, Divisions and Subordinate Licensing of Spectrum Licenses for Commercial Mobile Spectrum (June 2013).

“Material Contract” means (a) the contracts, licences and agreements listed and described in the Disclosure Letter and (b) any other contract, licence or agreement (i) to which the Issuer or any Guarantor is a party or is bound, (ii) which is material to, or necessary in, the operation of the business of the Issuer or any Guarantor, and (iii) which a the Issuer or any Guarantor cannot promptly replace by an alternative and comparable contract with comparable commercial terms.

“Monitor” means the monitor appointed pursuant to the Initial Order in respect of the Issuer and the Guarantors.

“Noteholder Confidentiality Agreement” means a confidentiality agreement entered into or binding upon a Purchaser and one or more of the Issuer and the Guarantors.

“Obligations” means any and all amounts now or hereafter owing by the Issuer and/or the Guarantors to the Purchasers pursuant to this Agreement or any other DIP Document (including all principal, interest, fees, expenses, the DIP Funding Fee, indemnities and any other amounts).

“Pari Passu Convertible Debentures” means the Initial Convertible Debentures as such term is defined in the Quadrangle Commitment.

“Perfection Certificate” means the perfection certificate delivered by the Issuer and the Guarantors to the Purchasers and the Collateral Agent dated as of the date hereof.

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

“Plan” means any plan of compromise, arrangement or reorganization filed pursuant to the CBCA, the CCAA or any other statute, in respect of any of the Issuer or any of the Guarantors.

“Potential Transaction” means a transaction that may or could reasonably be expected to result in a financing, refinancing, Sale Transaction, Change of Control or Plan.

“Professional Fees” means the fees and expenses of the legal and financial advisors to the Issuer and the Guarantors, the CRO, legal counsel to the CRO, the Monitor and legal counsel to the Monitor.

“Purchasers” means, collectively, the funds that are managed or administered by each Signatory and listed on Schedule A to such Signatory’s Signing Authority Letter.

“Quadrangle” means QCP CW S.a.r.l.

“Quadrangle Commitment” means the Second Amended and Restated Commitment Agreement dated as of April 29, 2011 by and among Holdings, Quadrangle and Data & Audio-Visual Enterprises Investments Inc., as it exists on the date hereof.

“Restructuring Alternative” means any restructuring, plan of arrangement or compromise, other transaction or any other alternative steps taken with respect to the Issuer and the Guarantors including, without limitation, any auction procedure or process, in each case in respect of all of the assets and property of the Issuer and the Guarantors (or any material portion or combination of such property and assets), a disposition of material assets, warehousing of the Spectrum Licenses, a suspension or termination of the Issuer’s business and operations, liquidation, winding-up, bankruptcy or other proceeding (including any other insolvency proceeding) in respect of the Issuer and the Guarantors, in each case as approved in advance by the Purchasers.

“Sale Transaction” means a sale by the Issuer or any Guarantors of all or substantially all of its assets or ongoing business operations.

“Senior Agent” means Equity Financial Trust Company, as trustee and collateral agent under the Senior Indenture.

“Senior Indenture” means the first lien secured indenture dated as of April 29, 2011 by and among the Issuer, as issuer, the guarantors party thereto and Equity Financial Trust Company, as trustee, as amended from time to time and as may be further amended, restated, supplemented or otherwise modified from time to time.

“Senior Notes” means the DIP Notes issued under the Senior Indenture.

“Senior Obligations” means all obligations of the Issuer and the Guarantors under the Senior Indenture and the Senior Notes.

“Senior Unsecured Debentures” means the debentures issued under the Senior Unsecured Indenture.

“Senior Unsecured Indenture” means the trust indenture amended and restated as of April 29, 2011 between Holdings, as issuer and Equity Financial Trust Company, as trustee, , as amended from time to time and as may be further amended, restated, supplemented or otherwise modified from time to time.

“Shareholders” means each of the shareholders of Holdings, including each of Quadrangle and Data & Audio-Visual Enterprises Investments Inc.

“Shareholders Agreement” means the Second Amended and Restated Shareholders Agreement made as of May 14, 2010 between Data & Audio-Visual Enterprises Investments Inc., Quadrangle, Holdings and the Issuer.

“Signatory” means each party listed on the signature pages to this Agreement that is signing for and on behalf of the Purchasers that it manages or administers that are listed on Schedule A to such party’s Signing Authority Letter.

“Spectrum Licenses” means the spectrum licences issued to the Issuer for spectrum in the 1730-1735, 2130-2135, 1735-1740 and 2135-2140 MHz frequency bands, and any other spectrum or radio licences held by the Issuer or any Guarantor and issued pursuant to the *Radiocommunication Act* (Canada) and the regulations made thereunder.

“Spectrum Transfer Restrictions” means the prohibitions set forth in section 2 (License Transfer and Divisibility) of the Spectrum Licenses, and any other similar prohibitions, that prohibit any transfer of the Spectrum Licenses to, or acquisition of ownership or control of the Issuer by, a company that does not meet the criteria of a new entrant prior to February 11, 2014.

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

SCHEDULE D
PRINCIPAL AMOUNT OF DIP NOTES

[REDACTED]

- 2 -

SCHEDULE E
PERMITTED LIENS

Nil.

**SCHEDULE F
DISCLOSURE LETTER**

[REDACTED]

EXHIBIT A – FORM OF DIP NOTE

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THIS SECURITY MUST NOT TRADE THE SECURITY BEFORE THE DATE THAT IS 4 MONTHS AND A DAY AFTER THE LATER OF (I) [●], 2013 AND (II) THE DATE THE ISSUER BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY”

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR ANY STATE SECURITIES LAW AND MAY BE OFFERED, SOLD OR OTHERWISE TRANSFERRED ONLY (A) TO THE ISSUER, (B) OUTSIDE THE UNITED STATES IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT, (C) WITHIN THE UNITED STATES IN COMPLIANCE WITH (I) RULE 144 UNDER THE ACT, OR (II) RULE 144A UNDER THE ACT, AND IN EACH CASE IN ACCORDANCE WITH APPLICABLE STATE SECURITIES LAWS, OR (D) IN A TRANSACTION THAT DOES NOT REQUIRE REGISTRATION UNDER THE ACT OR ANY APPLICABLE STATE SECURITIES LAWS, AND THE HOLDER HAS, PRIOR TO SUCH SALE, FURNISHED TO THE ISSUER AN OPINION OF COUNSEL SATISFACTORY TO THE ISSUER.

DELIVERY OF THIS CERTIFICATE MAY NOT CONSTITUTE "GOOD DELIVERY" IN SETTLEMENT OF TRANSACTIONS ON STOCK EXCHANGES IN CANADA. AT ANY TIME THAT THE ISSUER IS A "FOREIGN ISSUER" (AS DEFINED IN RULE 902 UNDER THE ACT), A NEW CERTIFICATE, BEARING NO LEGEND, THE DELIVERY OF WHICH WILL CONSTITUTE "GOOD DELIVERY" MAY BE OBTAINED FROM THE REGISTRAR AND TRANSFER AGENT OF THE ISSUER UPON DELIVERY OF THIS CERTIFICATE AND A DULY EXECUTED DECLARATION, IN A FORM SATISFACTORY TO THE TRANSFER AGENT AND THE ISSUER, TO THE EFFECT THAT THE SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT AND, IF REQUESTED BY THE ISSUER OR ITS TRANSFER AGENT, AN OPINION OF COUNSEL OF RECOGNIZED STANDING, EACH IN A FORM SATISFACTORY TO THE TRANSFER AGENT OF THE ISSUER AND THE ISSUER, TO THE EFFECT THAT SUCH SALE OF THE SECURITIES REPRESENTED HEREBY IS BEING MADE IN COMPLIANCE WITH RULE 904 OF REGULATION S UNDER THE ACT.

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

(A corporation incorporated under the laws of Ontario)

15.5% Second Lien Secured DIP Note

●, 2013

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. (the “Company”), for value received hereby acknowledges itself indebted and, subject to the provisions of a note purchase and guarantee agreement (as from time to time amended, restated, replaced or modified, the “**DIP Note Purchase Agreement**”) dated as of September 30, 2013 between, *inter alia*, the Company, Equity Financial Trust Company and the Purchasers named therein promises to pay to

●, the registered holder hereof, or its successors or permitted assigns, on the Maturity Date or on such earlier date as the principal amount hereof may become due in accordance with the terms of the DIP Note Purchase Agreement, the principal sum of ● CANADIAN DOLLARS (CDN\$ ●) with interest (a) on the unpaid balance thereof at the Interest Rate from the date hereof, calculated daily and payable monthly and compounded (to the extent not paid when due) in arrears on the first Business Day of each month and on the Maturity Date in accordance with the terms of the DIP Note Purchase Agreement, commencing on ●, 2013, until the principal hereof shall have become due and payable, and (b) to the extent permitted by law on any overdue payment (including any overdue prepayment) of principal or any overdue payment of interest, calculated and payable in accordance with the terms of the DIP Note Purchase Agreement (or, at the option of the registered holder hereof, on demand), at a rate per annum from time to time equal to 2% above the Interest Rate. Capitalized terms used and not defined herein shall have the meaning assigned thereto in the DIP Note Purchase Agreement.

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

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

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

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

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

This Note is secured by the Security.

Reference is hereby expressly made to the DIP Note Purchase Agreement for a description of the terms and conditions upon which the DIP Notes are issued and held and the rights and remedies of the holders of the DIP Notes and of the Company, all to the same effect as if the provisions of the DIP Note Purchase Agreement were herein set forth to all of which provisions the holder of this Note by acceptance hereof assents. To the extent that anything contained herein is inconsistent with or conflicts with the provisions of the DIP Note Purchase Agreement, the provisions of the DIP Note Purchase Agreement shall govern.

- 3 -

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

**DATA & AUDIO-VISUAL ENTERPRISES
WIRELESS INC.**

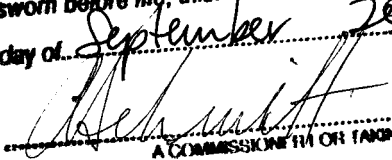
Per: _____

Name:

Title:

Exhibit “FF”

**Bankruptcy and Insolvency searches with the Office of the
Superintendent of Bankruptcy Canada current to August 27, 2013**

This is Exhibit FF referred to in the
affidavit of William Aziz
sworn before me, this 29th
day of September 2013

A COMMISSIONER IN CHIEF TAKING AFFIDAVITS

Office of the Superintendent of Bankruptcy Canada

Bankruptcy and Insolvency Records Search (BIA) search results | Résultats de la recherche dans le Registre des dossiers de faillite et d'insolvabilité (LFI)

2013-08-29

Search Criteria | Critères de recherche :

Name | Nom = Data & Audio-Visual Enterprises Wireless
Inc., Name Type | Type de nom = Business | Entreprise

Reference | Référence :

A search of the Office of the Superintendent of Bankruptcy records has revealed no information, for the period 1978 to 2013-08-27, based on the search criteria above-mentioned.

Une recherche dans le registre du Bureau du surintendant des faillites n'a révélé aucune information pour la période allant de 1978 à 2013-08-27, selon les critères de recherche susmentionnés.

-->

Office of the Superintendent of Bankruptcy Canada

Bankruptcy and Insolvency Records Search (BIA) search results | Résultats de la recherche dans le Registre des dossiers de faillite et d'insolvabilité (LFI)

2013-08-29

Search Criteria | Critères de recherche :

Name | Nom = Data & Audio-Visual Enterprises Holdings
Inc., Name Type | Type de nom = Business | Entreprise

Reference | Référence :

A search of the Office of the Superintendent of Bankruptcy records has revealed no information, for the period 1978 to 2013-08-27, based on the search criteria above-mentioned.

Une recherche dans le registre du Bureau du surintendant des faillites n'a révélé aucune information pour la période allant de 1978 à 2013-08-27, selon les critères de recherche susmentionnés.



Industry Canada

Office of the Superintendent of Bankruptcy Canada

Canada

**Bankruptcy and Insolvency Records Search (BIA) search results |
Résultats de la recherche dans le Registre des dossiers de faillite et d'insolvabilité (LFI)**

2013-08-29

Search Criteria | Critères de recherche :

Name | Nom = Data & Audio-Visual Enterprises Leasing Inc.,
Name Type | Type de nom = Business | Entreprise

Reference | Référence :

A search of the Office of the Superintendent of Bankruptcy records has revealed no information, for the period 1978 to 2013-08-27, based on the search criteria above-mentioned.

Une recherche dans le registre du Bureau du surintendant des faillites n'a révélé aucune information pour la période allant de 1978 à 2013-08-27, selon les critères de recherche susmentionnés.

Canada



Protecting the
Integrity of the
Insolvency System

Protéger l'intégrité
du système
d'insolvabilité

**Bankruptcy searches with the Ontario Superior Court of Justice in
Toronto and Ottawa current to August 28, 2013 and August 15, 2013,
respectively**

**Bankruptcy searches with the Clerk of the Court in Edmonton current
to August 29, 2013**

**Bankruptcy searches with the Supreme and Provincial Civil Court
Registries in British Columbia current to August 29, 2013**



ONTARIO SUPERIOR COURT OF JUSTICE CIVIL – SEARCH REPORT

Report Date: Thursday August 29, 2013
 Search Date: August 29, 2013
 Updated Search from: _____

1. For the purpose of this report, we have searched and/or examined the **Ontario Superior Court of Justice** indices/computer database(s) for the following matters:

- ☐ BULK SALES ACT Search
☐ LITIGATION / ACTION Search
☒ BANKRUPTCY Manual Search³

Search Jurisdiction: Toronto Conducted in and only covers this Municipal Jurisdiction.
 Search currency date: August 28, 2013 ² The currency date depends on the Courts frequency of data entry and records can be 2 to 3 weeks delayed.
 Search period covered: 10 years

2. Names Searched:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

3. Search Results:

Based on the search criteria provided by the client indicated above and subject to the **conditions of the search**, we report that:

- ☐ Clear - No Records Found for matters commenced by or against the above mentioned name(s) searched.
☒ Record(s) Found. Please see page 2 attached for case details.
☐ Similar Records Found. See section 4, or on page 2 for more information. Additional searches may be required to obtain details.
☒ Superior Court Case Summary Screen Print(s) attached. (Toronto only)
☐ Superior Court Case Listing Screen Print(s) attached.
☐ Copies of Superior Court file(s) attached. (Files in storage can take a minimum of 5 to 10 business days to arrive in Toronto.)

4. Comments:

Please note – current civil matters are on file for “DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.”, “DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. C.O.B. MOBILITY”, “DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.” and “DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.”

Internal Reference: M.M.

Acknowledgment and Conditions of the Search:

- Based on a request from your office via facsimile, electronic mail or verbal instruction by you or an agent of your office as indicated above, Centro Legal Works Inc. (“Centro”) has been authorized to conduct the search services indicated above. Centro makes every effort to ensure the accuracy of the information provided to clients. The information provided is non-certified unless otherwise indicated and/or requested. Centro makes no warranties, either expressed or implied, on the accuracy and completeness of the information provided by the various court office(s), government office(s), and State electronic or manual databases/indices due to many sources of potential error in the storage, maintenance, retrieval, or incorrect interpretation of the information supplied and therefore is not liable for any loss or damages. The services performed and information obtained and summarized in this report is done so as a service to the client and is not to be construed as a legal opinion.
- Search Currency & Accuracy:** The currency date of the search can be 2 to 3 weeks delayed due to the Courts frequency of data entry. The Superior Court of Justice computer database(s) vary across Ontario and contain errors due to inaccurate and/or neglected data entry. Searches outside the Toronto jurisdiction are conducted and entered by a Superior Court Clerk and are subject to errors, or case(s) not found due to inaccurate data-entry. Therefore, we cannot guarantee that all cases on the name(s) searched will be found. The search results provided are based only on the exact name(s) provided by the client indicated in section 2 and additional search variations should be considered and/or required.
- Bankruptcy & Bulk Sales Searches:** For Bankruptcy and Bulk Sales searches that result in a Commercial List (“CL”) matter found, it is recommended the file be ordered and examined to determine its relation to a Bankruptcy or Bulk Sales matter. Centro will not report a Bankruptcy or Bulk Sales search as “clear” unless the CL file is examined. It is also recommended that an Insolvency Name Search be conducted with the Office of the Superintendent of Bankruptcy in Ottawa to complete the Bankruptcy search. Bankruptcy file numbers/divisions: (example 31-OR-123456). [31 – Toronto; 32 – Hamilton; 33 – Ottawa; 34 – Thunder Bay; 35 – London].
- Alterations or modifications to this document are strictly prohibited.

Public View Terminals

Today is: Aug-29-2013

Court Name: Toronto
Court Address: 393 University Av 10th
fl, Toronto, ON, M5G1E6



Case Information

Case Number: CV130001001600CL Case Type: CLDCL CL -- Directed on Commercial List NN Case Mgmt. Type: NN No notice required Case Opened Date: Feb 25, 2013 Judicial Official: Originating Court: 48704 Toronto	Status: Active Amount: 0 Trial Type: NJ NON JURY Age in Days: 186 Date Seized:
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THE CATALYST CAPITAL GROUP INC v. DATA & AUDIO -VISUAL ENTERPRISES WIRELESS INC et al

Party & Document Information

Surname/Business	Given Name	Type	Disposed Date	Lawyer
DATA & AUDIO - VISUAL ENTERPRISES N/A WIRELESS INC		RE		MARK S. KESTENBERG
DATA & AUDIO- VISUAL ENTERPRISES N/A LEASING INC		RE		MARK S. KESTENBERG
DATA & AUDIO- VISUAL ENTERPRISES N/A HOLDINGS INC		RE		MARK S. KESTENBERG
EQUITY FINANCIAL TRUST COMPANY	N/A	RE		JANICE LESLIE WRIGHT
THE CATALYST CAPITAL GROUP INC	N/A	AP		DAVID CAMERON MOORE
UNKNOWN PURCHASERS	N/A	RE		UNREPRESENTED

Event Information

Date	Time	Event	Description
Jul 12, 2013	09:30 AM	13	CL-Hearing Commercial List
Jul 10, 2013	09:58 AM	12	Motion on notice
Jul 10, 2013	09:00 AM	11	Case conference
Jul 05, 2013	09:30 AM	10	CL-Hearing Commercial List
May 28, 2013	09:58 AM	9	Motion on notice
Apr 26, 2013	09:30 AM	8	CL-Hearing Commercial List
May 24, 2013	09:58 AM	7	Motion on notice
Apr 25, 2013	09:30 AM	6	CL-Hearing Commercial List
Apr 17, 2013	09:30 AM	5	CL-Hearing Commercial List
Mar 08, 2013	09:30 AM	4	CL-Hearing Commercial List
Mar 26, 2013	09:58 AM	3	Motion on notice
Mar 05, 2013	09:30 AM	2	CL-Hearing Commercial List
Feb 25, 2013	09:30 AM	1	CL-Hearing Commercial List

Event Result Information

Date	Order	Event
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ONTARIO SUPERIOR COURT OF JUSTICE CIVIL – SEARCH REPORT

Report Date: Friday, August 30, 2013
 Search Date: August 29, 2013
 Updated Search from: _____

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☐ LITIGATION / ACTION Search
☒ BANKRUPTCY Manual Search³

Search Jurisdiction: Ottawa Conducted in and only covers this Municipal Jurisdiction.

Search currency date: August 15, 2013 ² The currency date depends on the Courts frequency of data entry and records can be 2 to 3 weeks delayed.

Search period covered: 10 years

2. Names Searched:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

3. Search Results:

Based on the search criteria provided by the client indicated above and subject to the *conditions of the search*, we report that:

- ☒ Clear - No Records Found for matters commenced by or against the above mentioned name(s) searched.
☐ Record(s) Found. Please see page 2 attached for case details.
☐ Similar Records Found. See section 4, or on page 2 for more information. Additional searches may be required to obtain details.
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4. Comments:

Internal Reference: **LB**

Acknowledgment and Conditions of the Search:

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Search Jurisdiction: Toronto Conducted in and only covers this Municipal Jurisdiction.
 Search currency date: August 28, 2013 ² The currency date depends on the Courts frequency of data entry and records can be 2 to 3 weeks delayed.
 Search period covered: 10 years

2. Names Searched:

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

3. Search Results:

Based on the search criteria provided by the client indicated above and subject to the **conditions of the search**, we report that:

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Please note – current civil matters are on file for “DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.”, “DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. C.O.B. MOBILICITY” and “DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.”

Internal Reference: **M.M.**

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Party & Document Information

Surname/Business	Given Name	Type	Disposed Date	Lawyer
DATA & AUDIO - VISUAL ENTERPRISES N/A WIRELESS INC		RE		MARK S. KESTENBERG
DATA & AUDIO- VISUAL ENTERPRISES N/A LEASING INC		RE		MARK S. KESTENBERG
DATA & AUDIO- VISUAL ENTERPRISES N/A HOLDINGS INC		RE		MARK S. KESTENBERG
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THE CATALYST CAPITAL GROUP INC	N/A	AP		DAVID CAMERON MOORE
UNKNOWN PURCHASERS	N/A	RE		UNREPRESENTED

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Event Result Information

Date	Order	Event
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☐ LITIGATION / ACTION Search
☒ BANKRUPTCY Manual Search³

Search Jurisdiction: Ottawa Conducted in and only covers this Municipal Jurisdiction.
 Search currency date: August 15, 2013 ^{*2} The currency date depends on the Courts frequency of data entry and records can be 2 to 3 weeks delayed.
 Search period covered: 10 years

2. Names Searched:

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

3. Search Results:

Based on the search criteria provided by the client indicated above and subject to the **conditions of the search**, we report that:

- ☒ **Clear - No Records Found** for matters commenced by or against the above mentioned name(s) searched.
☐ Record(s) Found. Please see page 2 attached for case details.
☐ Similar Records Found. See section 4, or on page 2 for more information. Additional searches may be required to obtain details.
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☐ Superior Court Case Listing Screen Print(s) attached.
☐ Copies of Superior Court file(s) attached. (Files in storage can take a minimum of 5 to 10 business days to arrive in Toronto.)

4. Comments:

Internal Reference: **LB**

Acknowledgment and Conditions of the Search:

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☐ LITIGATION / ACTION Search
☒ BANKRUPTCY Manual Search³

Search Jurisdiction: Toronto Conducted in and only covers this Municipal Jurisdiction.
 Search currency date: August 28, 2013 ² The currency date depends on the Courts frequency of data entry and records can be 2 to 3 weeks delayed.
 Search period covered: 10 years

2. Names Searched:

DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

3. Search Results:

Based on the search criteria provided by the client indicated above and subject to the **conditions of the search**, we report that:

- ☐ Clear - No Records Found for matters commenced by or against the above mentioned name(s) searched.
☒ Record(s) Found. Please see page 2 attached for case details.
☐ Similar Records Found. See section 4, or on page 2 for more information. Additional searches may be required to obtain details.
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☐ Copies of Superior Court file(s) attached. (Files in storage can take a minimum of 5 to 10 business days to arrive in Toronto.)

4. Comments:

Please note – current civil matters are on file for “DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.”, “DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. C.O.B. MOBILICITY” and “DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.”

Internal Reference: **M.M.**

Acknowledgment and Conditions of the Search:

- Based on a request from your office via facsimile, electronic mail or verbal instruction by you or an agent of your office as indicated above, Centro Legal Works Inc. (“Centro”) has been authorized to conduct the search services indicated above. Centro makes every effort to ensure the accuracy of the information provided to clients. The information provided is non-certified unless otherwise indicated and/or requested. Centro makes no warranties, either expressed or implied, on the accuracy and completeness of the information provided by the various court office(s), government office(s), and State electronic or manual databases/indices due to many sources of potential error in the storage, maintenance, retrieval, or incorrect interpretation of the information supplied and therefore is not liable for any loss or damages. The services performed and information obtained and summarized in this report is done so as a service to the client and is not to be construed as a legal opinion.
- Search Currency & Accuracy:** The currency date of the search can be 2 to 3 weeks delayed due to the Courts frequency of data entry. The Superior Court of Justice computer database(s) vary across Ontario and contain errors due to inaccurate and/or neglected data entry. Searches outside the Toronto jurisdiction are conducted and entered by a Superior Court Clerk and are subject to errors, or case(s) not found due to inaccurate data-entry. Therefore, we cannot guarantee that all cases on the name(s) searched will be found. The search results provided are based only on the exact name(s) provided by the client indicated in section 2 and additional search variations should be considered and/or required.
- Bankruptcy & Bulk Sales Searches:** For Bankruptcy and Bulk Sales searches that result in a Commercial List (“CL”) matter found, it is recommended the file be ordered and examined to determine its relation to a Bankruptcy or Bulk Sales matter. Centro will not report a Bankruptcy or Bulk Sales search as “clear” unless the CL file is examined. It is also recommended that an Insolvency Name Search be conducted with the Office of the Superintendent of Bankruptcy in Ottawa to complete the Bankruptcy search. Bankruptcy file numbers/divisions: (example 31-OR-123456). [31 – Toronto; 32 – Hamilton; 33 – Ottawa; 34 – Thunder Bay; 35 – London].
- Alterations or modifications to this document are strictly prohibited.

Public View Terminals

Today is: Aug-29-2013

Court Name: Toronto
Court Address: 393 University Av 10th
fl, Toronto, ON, M5G1E6



Case Information

Case Number: CV130001001600CL Case Type: CLDCL CL -- Directed on Commercial List NN Case Mgmt. Type: NN No notice required Case Opened Date: Feb 25, 2013 Judicial Official: Originating Court: 48704 Toronto	Status: Active Amount: 0 Trial Type: NJ NON JURY Age in Days: 186 Date Seized:
--	---

THE CATALYST CAPITAL GROUP INC v. DATA & AUDIO -VISUAL ENTERPRISES WIRELESS INC et al

Party & Document Information

Surname/Business	Given Name	Type	Disposed Date	Lawyer
DATA & AUDIO - VISUAL ENTERPRISES N/A WIRELESS INC		RE		MARK S. KESTENBERG
DATA & AUDIO- VISUAL ENTERPRISES N/A LEASING INC		RE		MARK S. KESTENBERG
DATA & AUDIO- VISUAL ENTERPRISES N/A HOLDINGS INC		RE		MARK S. KESTENBERG
EQUITY FINANCIAL TRUST COMPANY	N/A	RE		JANICE LESLIE WRIGHT
THE CATALYST CAPITAL GROUP INC	N/A	AP		DAVID CAMERON MOORE
UNKNOWN PURCHASERS	N/A	RE		UNREPRESENTED

Event Information

Date	Time	Event	Description
Jul 12, 2013	09:30 AM	13	CL-Hearing Commercial List
Jul 10, 2013	09:58 AM	12	Motion on notice
Jul 10, 2013	09:00 AM	11	Case conference
Jul 05, 2013	09:30 AM	10	CL-Hearing Commercial List
May 28, 2013	09:58 AM	9	Motion on notice
Apr 26, 2013	09:30 AM	8	CL-Hearing Commercial List
May 24, 2013	09:58 AM	7	Motion on notice
Apr 25, 2013	09:30 AM	6	CL-Hearing Commercial List
Apr 17, 2013	09:30 AM	5	CL-Hearing Commercial List
Mar 08, 2013	09:30 AM	4	CL-Hearing Commercial List
Mar 26, 2013	09:58 AM	3	Motion on notice
Mar 05, 2013	09:30 AM	2	CL-Hearing Commercial List
Feb 25, 2013	09:30 AM	1	CL-Hearing Commercial List

Event Result Information

Date	Order	Event
-------------	--------------	--------------



ONTARIO SUPERIOR COURT OF JUSTICE CIVIL – SEARCH REPORT

Report Date: Friday, August 30, 2013
 Search Date: August 29, 2013
 Updated Search from: _____

1. For the purpose of this report, we have searched and/or examined the Ontario Superior Court of Justice indices/computer database(s) for the following matters:

- ☐ BULK SALES ACT Search
☐ LITIGATION / ACTION Search
☒ BANKRUPTCY Manual Search³

Search Jurisdiction: Ottawa Conducted in and only covers this Municipal Jurisdiction.
 Search currency date: August 15, 2013 ²The currency date depends on the Courts frequency of data entry and records can be 2 to 3 weeks delayed.
 Search period covered: 10 years

2. Names Searched:

DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

3. Search Results:

Based on the search criteria provided by the client indicated above and subject to the **conditions of the search**, we report that:

- ☒ **Clear - No Records Found** for matters commenced by or against the above mentioned name(s) searched.
☐ **Record(s) Found.** Please see page 2 attached for case details.
☐ **Similar Records Found.** See section 4, or on page 2 for more information. Additional searches may be required to obtain details.
☐ **Superior Court Case Summary Screen Print(s) attached.** (Toronto only)
☐ **Superior Court Case Listing Screen Print(s) attached.**
☐ **Copies of Superior Court file(s) attached.** (Files in storage can take a minimum of 5 to 10 business days to arrive in Toronto.)

4. Comments:

Internal Reference: **LB**

Acknowledgment and Conditions of the Search:

- Based on a request from your office via facsimile, electronic mail or verbal instruction by you or an agent of your office as indicated above, Centro Legal Works Inc. ("Centro") has been authorized to conduct the search services indicated above. Centro makes every effort to ensure the accuracy of the information provided to clients. The information provided is non-certified unless otherwise indicated and/or requested. Centro makes no warranties, either expressed or implied, on the accuracy and completeness of the information provided by the various court office(s), government office(s), and State electronic or manual databases/indices due to many sources of potential error in the storage, maintenance, retrieval, or incorrect interpretation of the information supplied and therefore is not liable for any loss or damages. The services performed and information obtained and summarized in this report is done so as a service to the client and is not to be construed as a legal opinion.
- Search Currency & Accuracy:** The currency date of the search can be 2 to 3 weeks delayed due to the Courts frequency of data entry. The Superior Court of Justice computer database(s) vary across Ontario and contain errors due to inaccurate and/or neglected data entry. Searches outside the Toronto jurisdiction are conducted and entered by a Superior Court Clerk and are subject to errors, or case(s) not found due to inaccurate data-entry. Therefore, we cannot guarantee that all cases on the name(s) searched will be found. The search results provided are based only on the exact name(s) provided by the client indicated in section 2 and additional search variations should be considered and/or required.
- Bankruptcy & Bulk Sales Searches:** For Bankruptcy and Bulk Sales searches that result in a Commercial List ("CL") matter found, it is recommended the file be ordered and examined to determine its relation to a Bankruptcy or Bulk Sales matter. Centro will not report a Bankruptcy or Bulk Sales search as "clear" unless the CL file is examined. It is also recommended that an Insolvency Name Search be conducted with the Office of the Superintendent of Bankruptcy in Ottawa to complete the Bankruptcy search. Bankruptcy file numbers/divisions: (example 31-OR-123456). [31 – Toronto; 32 – Hamilton; 33 – Ottawa; 34 – Thunder Bay; 35 – London].
- Alterations or modifications to this document are strictly prohibited.

29/08/2013 10:20:21 PAGE 0001

CASES RQ0700 EDMONTON

CLERK OF THE COURT - COUNTER

INDEX SEARCH BY NAME - PROVINCE WIDE

SEARCH : LAST/COMPANY NAME: DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. COMPANY: Y

CRITERIA : FIRST NAME: INITIAL:

NAME TYPE: P JURISDICTION Q VS:

REPORT COMMENT :

SELECT ALL FILES : Y

SELECT BY FILE # : N STARTING: 79 ENDING: 13

STARTING DOCUMENT LAST STATUS DATE LAST STATUS DESCRIPTION PREVIOUS COURT

*****END OF REPORT*****

CASES RQ0700 EDMONTON 29/08/2013 10:20:53 PAGE 0001

CLERK OF THE COURT - COUNTER

INDEX SEARCH BY NAME - PROVINCE WIDE

SEARCH : LAST/COMPANY NAME: DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. COMPANY: Y

CRITERIA : FIRST NAME: INITIAL:

NAME TYPE: D JURISDICTION Q VS:

REPORT COMMENT :

SELECT ALL FILES : Y

SELECT BY FILE # : N STARTING: 79 ENDING: 13

STARTING DOCUMENT	LAST STATUS DATE	LAST STATUS DESCRIPTION	PREVIOUS COURT
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*****END OF REPORT*****

CASES RQ0700 EDMONTON 29/08/2013 10:31:39 PAGE 0001

CLERK OF THE COURT - COUNTER INDEX SEARCH BY NAME - PROVINCE WIDE
SEARCH : LAST/COMPANY NAME: DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. COMPANY: Y
CRITERIA : FIRST NAME: INITIAL:
NAME TYPE: D JURISDICTION Q VS:

REPORT COMMENT :
SELECT ALL FILES : Y
SELECT BY FILE # : N STARTING: 79 ENDING: 13
STARTING DOCUMENT LAST STATUS DATE LAST STATUS DESCRIPTION PREVIOUS COURT

*****END OF REPORT*****

CASES RQ0700 29/08/2013 10:30:33 PAGE 0001

EDMONTON

CLERK OF THE COURT - COUNTER INDEX SEARCH BY NAME - PROVINCE WIDE

SEARCH : LAST/COMPANY NAME: DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC. COMPANY: Y
 CRITERIA : FIRST NAME: INITIAL:

NAME TYPE: P JURISDICTION Q VS:

REPORT COMMENT :

SELECT ALL FILES : Y

SELECT BY FILE # : N STARTING: 79 ENDING: 13

STARTING DOCUMENT	LAST STATUS DATE	LAST STATUS DESCRIPTION	PREVIOUS COURT
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*****END OF REPORT*****

CASES RQ0700 EDMONTON 29/08/2013 10:06:50 PAGE 0001

CLERK OF THE COURT - COUNTER INDEX SEARCH BY NAME - PROVINCE WIDE

SEARCH : LAST/COMPANY NAME: DATA & AUDIO-VISUAL ENTERPRISES LEASING INC. COMPANY: Y

CRITERIA : FIRST NAME: INITIAL:

NAME TYPE: P JURISDICTION Q VS:

REPORT COMMENT :

SELECT ALL FILES : Y

SELECT BY FILE # : N STARTING: 79 ENDING: 13

STARTING DOCUMENT	LAST STATUS DATE	LAST STATUS DESCRIPTION	PREVIOUS COURT
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*****END OF REPORT*****

CASES RQ0700 EDMONTON 29/08/2013 10:32:23 PAGE 0001

CLERK OF THE COURT - COUNTER INDEX SEARCH BY NAME - PROVINCE WIDE
SEARCH : LAST/COMPANY NAME: DATA & AUDIO-VISUAL ENTERPRISES LEASING INC. COMPANY: Y
CRITERIA : FIRST NAME: INITIAL:
NAME TYPE: D JURISDICTION Q VS:

REPORT COMMENT :
SELECT ALL FILES : Y
SELECT BY FILE # : N STARTING: 79 ENDING: 13
STARTING DOCUMENT LAST STATUS DATE LAST STATUS DESCRIPTION PREVIOUS COURT

*****END OF REPORT*****



COURT SEARCH REPORT

INVOICE# 7829653-5

PLEASE NOTE: THE COURT REGISTRIES DO NOT GUARANTEE THE ACCURACY OF COURT RECORDS

CONTACT & FILE INFORMATION	
Date:	August 29, 2013
Firm:	OnCorp Direct
Attention:	Kettelle Bazile
File Reference:	Data & Audio-Visual Enterprise

NAMES TO BE SEARCHED	
Data & Audio-Visual Enterprises Holdings Inc.	

☒ Province Wide* ☐ Vic** ☐ Other
No. Of Years Searched 10 Plaintiff ☒ Defendant ☒
BC Supreme and Provincial Civil

YEAR	ACTION NO.	STYLE OF PROCEEDING
2013	Nil	
2012	Nil	
2011	Nil	
2010	Nil	
2009	Nil	
2008	Nil	
2007	Nil	
2006	Nil	
2005	Nil	
2004	Nil	
2003	Nil	

VARIATIONS & COMMENTS

****NOTE: B.C. COURTS vary by location and Currency Date Approximately 21 days from date of search

*These search results include all Provincial and Supreme level actions including probate and bankruptcy files (with the exception of all provincial family files & Victoria Supreme court files prior to 2002). Dye & Durham guarantees that it will accurately report to clients all information contained in files and records maintained by public Supreme and Provincial Civil Court Registries within the Province. The data provided by Court Services Online is "as is" without warranty of any kind, either expressed or implied. Neither the Province nor consequently Dye & Durham warrant the accuracy or the completeness of the data obtained via this system. Some CSO data may suffer from inaccuracies, errors or omissions. For confirmation of information Dye & Durham can attend on your behalf at the specific court registry. Clients rely on and proceed with information that is reported from this system at their own risk.

SEARCHED BY: OLJJI

CURRENCY DATE: See above note



COURT SEARCH REPORT

INVOICE# 7829651-7

PLEASE NOTE: THE COURT REGISTRIES DO NOT GUARANTEE THE ACCURACY OF COURT RECORDS

CONTACT & FILE INFORMATION	
Date: August 29, 2013	
Firm: OnCorp Direct	
Attention: Kettelle Bazile	
File Reference: DATA & AUDIO-VISUAL ENTERPRISE	

☒ Province Wide* ☐ Vic** ☐ Other
No. Of Years Searched 10 Plaintiff ☒ Defendant ☒
BC Supreme and Provincial Civil

NAMES TO BE SEARCHED
DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. - 1 action

YEAR	ACTION NO.	STYLE OF PROCEEDING
2013	Nil	
2012	128717	December 7, Supreme Civil (General), Vancouver – TELUS COMMUNICATIONS COMPANY v DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
2011	Nil	
2010	Nil	
2009	Nil	
2008	Nil	
2007	Nil	
2006	Nil	
2005	Nil	
2004	Nil	
2003	Nil	

VARIATIONS & COMMENTS

****NOTE: B.C. COURTS vary by location and Currency Date Approximately 21 days from date of search

*These search results include all Provincial and Supreme level actions including probate and bankruptcy files (with the exception of all provincial family files & Victoria Supreme court files prior to 2002). Dye & Durham guarantees that it will accurately report to clients all information contained in files and records maintained by public Supreme and Provincial Civil Court Registries within the Province. The data provided by Court Services Online is "as is" without warranty of any kind, either expressed or implied. Neither the Province nor consequently Dye & Durham warrant the accuracy or the completeness of the data obtained via this system. Some CSO data may suffer from inaccuracies, errors or omissions. For confirmation of information Dye & Durham can attend on your behalf at the specific court registry. Clients rely on and proceed with information that is reported from this system at their own risk.

SEARCHED BY: OL/JI

CURRENCY DATE: See above note



You are logged on as Debbie Larson

[Log Off](#)

Search Civil By Party Name - Organization Results

[Refine Search](#)
[New Search](#)

Search Criteria:

Organization Name: data & audio
Your file number: 7829654-4jl

Results: 1 - 1 of 1

Last Name, First Name Style of Cause	Classification of File	Court Location	File Number	Date File Opened	Date Last Updated	View
DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. TELUS COMMUNICATIONS COMPANY v DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.	Supreme Supreme Civil (General)	Vancouver Law Courts	128717	07Dec2012	19Dec2012	



You are logged on as Debbie Larson

Log Off

File Number VLC-S-S-128717

File Options:

[File Summary Report - \\$6.00](#)

[Request Documents](#)

[New Search](#)

[Back to Search Results](#)

[7829654-411 \[UPDATE \]](#)

Case Basics

Parties

Documents

Hearings and Results

Transfers

Date File Opened: 07Dec2012

Style of Cause: TELUS COMMUNICATIONS COMPANY v DATA & AUDIO-VISUAL
ENTERPRISES WIRELESS INC.

Location: Vancouver Law Courts

Level of Court: Supreme

Class of Court: Supreme Civil (General)

Initiating Document(s): Notice of Civil Claim



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[Log Off](#)

File Number VLC-S-S-128717

File Options:

[File Summary Report - \\$6.00](#)

[Request Documents](#)

[New Search](#)

[Back to Search Results](#)

[7829654-411 \[UPDATE \]](#)

Case Basics

Parties

Documents

Hearings and Results

Transfers

Last Name, First Name
Middle Name

Role of Party
On File

Counsel Name
Counsel Phone

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

Defendant

TELUS COMMUNICATIONS COMPANY

Plaintiff

ANDERSON, R.S.



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File Number VLC-S-S-128717

File Options:

[File Summary Report - \\$6.00](#)[Request Documents](#)[New Search](#)[Back to Search Results](#)[7829654-411 \[UPDATE \]](#)

Access Basis:

Public View

[Case Basics](#)[Parties](#)[Documents](#)[Hearings and Results](#)[Transfers](#)

Initiating Document	Amended Document	#	Document Description	Date Document Filed	Claim Amount	Document Request
		14	Reasons For Judgment	19Dec2012		Request
		11	Affidavit	17Dec2012		
		12	Affidavit	17Dec2012		
		13	Affidavit	14Dec2012		
			Order Made after Application	14Dec2012		
		9	Affidavit	13Dec2012		
		8	Affidavit	13Dec2012		
		10	Affidavit	13Dec2012		
		15	Application Response	13Dec2012		Request
		5	Affidavit	11Dec2012		
		7	Affidavit	10Dec2012		
		6	Affidavit	10Dec2012		
		3	Affidavit	07Dec2012		
		2	Requisition	07Dec2012		Request
☒		1	Notice of Civil Claim	07Dec2012		View
		4	Notice of Application	07Dec2012		View
			Order	07Dec2012		



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File Number VLC-S-S-128717

File Options:

[File Summary Report - \\$6.00](#)[Request Documents](#)[New Search](#)[Back to Search Results](#)[7829654-411 \[UPDATE \]](#)

TERMS OF ORDER DISCLAIMER

The "Terms of Order" information is a summary of the order in the court file.

While effort is made to ensure that the information on the system is accurate, the information is provided "as is" without warranty of any kind, either express or implied. The Province does not warrant the accuracy or the completeness of the information, nor that CSO will function without error, failure or interruption. Users of CSO acknowledge that some information may suffer from inaccuracies, errors or omissions. Users of CSO rely on the information at their own risk.

For confirmation of an order contact the specific [court registry](#).

[Case Basics](#) [Parties](#) [Documents](#) [Hearings and Results](#) [Transfers](#)

Hearing Date: 14Dec2012

Hearing Time: 10:00 AM

Hearing Location: Vancouver Law Courts

List Type for the Hearing: Supreme Court Civil List

#	Document Description	Reason	Result	Canc.
4	Notice of Application	Chambers Application	Adjourned to a specific date	

Terms of Order

Order Made after Application

1. The exhibits of blogs and other commentary posted online are not sufficiently reliable to be admissible evidence in this matter. Exhibits M and N of the affidavit of Angelina Casselman and exhibits B, C, E, and F of the affidavit of Mr Chappell at tab 12, and whether or not connected with online publicationary matters in paragraphs 10 and 11 of Mr Chappel's affidavit are to not be used as evidence for reply.
2. Paragraphs 11, 12, 13, and 14 of the Chappel affidavit are to be eliminated. [
3. The affidavit of Simao is to be made admissible.
4. Mr Justice Grauer will give judgment on the other matters at 9 AM on Wednesday, December 19th, 2012.

Hearing Date: 07Dec2012

Hearing Time: 9:45 AM

Hearing Location: Vancouver Law Courts

List Type for the Hearing: Supreme Court Chambers List

#	Document	Reason	Result	Canc.
---	----------	--------	--------	-------

Description		
2	Requisition	Chambers Application
		The end or conclusion of planned appearances

Terms of Order**Order**

1. VLC-S-S-128717 TELUS COMMUNICATIONS COMPANY = ORD-Order(01816)_07-Dec-2012 1 #2 Requisition - END 1 - OM [02:36:45 PM] 2 Short Leave Granted and Order signed on bench. [02:37:01 PM] 3 Matter returnable on December 14, 2012 at 10 AM



You are logged on as Debbie Larson

Log Off

File Number VLC-S-S-128717

File Options:

[File Summary Report - \\$6.00](#)

[Request Documents](#)

[New Search](#)

[Back to Search Results](#)

[7829654-411 \[UPDATE \]](#)

Case Basics

Parties

Documents

Hearings and Results

Transfers



COURT SEARCH REPORT

INVOICE# 7829654-4

PLEASE NOTE: THE COURT REGISTRIES DO NOT GUARANTEE THE ACCURACY OF COURT RECORDS

CONTACT & FILE INFORMATION
Date: August 29, 2013
Firm: OnCorp Direct
Attention: Kettelle Bazile
File Reference: Data & Audio-Visual Enterprise

NAMES TO BE SEARCHED
Data & Audio-Visual Enterprises Leasing Inc.

☒ Province Wide* ☐ Vic** ☐ Other
No. Of Years Searched 10 Plaintiff ☒ Defendant ☒
BC Supreme and Provincial Civil

YEAR	ACTION NO.	STYLE OF PROCEEDING
2013	Nil	
2012	Nil	
2011	Nil	
2010	Nil	
2009	Nil	
2008	Nil	
2007	Nil	
2006	Nil	
2005	Nil	
2004	Nil	
2003	Nil	

VARIATIONS & COMMENTS

****NOTE: B.C. COURTS vary by location and Currency Date Approximately 21 days from date of search

*These search results include all Provincial and Supreme level actions including probate and bankruptcy files (with the exception of all provincial family files & Victoria Supreme court files prior to 2002 Dye & Durham guarantees that it will accurately report to clients all information contained in files and records maintained by public Supreme and Provincial Civil Court Registries within the Province. The data provided by Court Services Online is "as is" without warranty of any kind, either expressed or implied. Neither the Province nor consequently Dye & Durham warrant the accuracy or the completeness of the data obtained via this system. Some CSO data may suffer from inaccuracies, errors or omissions. For confirmation of information Dye & Durham can attend on your behalf at the specific court registry. Clients rely on and proceed with information that is reported from this system at their own risk.

SEARCHED BY: OL/JI

CURRENCY DATE: See above note

**Personal Property Security Registration System searches in Ontario,
Alberta and British Columbia current to August 28, 2013 and August
29, 2013, respectively**

REPORT : PSSR060
PAGE : 1
(8320)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115106.83

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR

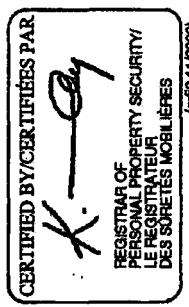
SEARCH CONDUCTED ON : DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

FILE CURRENCY : 28AUG 2013

ENQUIRY NUMBER 20130829115106.83 CONTAINS 12 PAGE(S), 6 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

ESC - SUSAN
400-445 KING STREET WEST
TORONTO ON M5V 1K4



CONTINUED... 2

REPORT : PSSR060
PAGE : 2
(8321)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115106-83

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
28AUG 2013

00 684332757

01	001	001	20130125 1652 1862 7436	P	PPSA	2
02	DATE OF BIRTH	20130125	1652	1862	7436	
03	DATE OF BIRTH	20130125	1652	1862	7436	
04	DATE OF BIRTH	20130125	1652	1862	7436	
05	DATE OF BIRTH	20130125	1652	1862	7436	
06	DATE OF BIRTH	20130125	1652	1862	7436	
07	DATE OF BIRTH	20130125	1652	1862	7436	
08	DATE OF BIRTH	20130125	1652	1862	7436	
09	DATE OF BIRTH	20130125	1652	1862	7436	
10	DATE OF BIRTH	20130125	1652	1862	7436	
11	DATE OF BIRTH	20130125	1652	1862	7436	
12	DATE OF BIRTH	20130125	1652	1862	7436	
13	DATE OF BIRTH	20130125	1652	1862	7436	
14	DATE OF BIRTH	20130125	1652	1862	7436	
15	DATE OF BIRTH	20130125	1652	1862	7436	
16	DATE OF BIRTH	20130125	1652	1862	7436	
17	DATE OF BIRTH	20130125	1652	1862	7436	

CERTIFIED BY/CERTIFIÉES PAR
K. [Signature]
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SURETES MOBILIERES
(e/fin 11/2008)



CONTINUED... 3

REPORT : PSSR060
PAGE : 3
(8322)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115106.83

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
28AUG 2013

[REDACTED]

[REDACTED]

20130517 1200 1862 5728

001 002 684332757

[REDACTED]

A AMENDMENT

[REDACTED]

DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

DEBTOR NAME CHANGE AS A RESULT OF THE AMALGAMATION OF DATA &
AUDIO-VISUAL ENTERPRISES WIRELESS INC. AND DATA & AUDIO-VISUAL
ENTERPRISES LEASING INC. TO CONTINUE AS ONE COMPANY UNDER THE NAME

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

TORONTO

161 BAY STREET, SUITE 2300

ON M5J 2S1

NORTON ROSE CANADA LLP (AR/HR)
200 BAY ST., SUITE 3800, SOUTH TOWER

TORONTO

ON M5J 2Z4

CONTINUED...

CERTIFIED BY/CERTIFIÉES PAR
K. [Signature]
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SURETES MOBILIERES
(c/21 11/2008)



REPORT : PSS060
PAGE : 4
(8323)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115106.83

BUSINESS DEFTOR
DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
28AUG 2013

01 [REDACTED]
21 [REDACTED] 002 684332757 20130517 1300 1862 5728
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]
02/ [REDACTED]
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06 [REDACTED]
04/07 [REDACTED] 101 EXCHANGE AVENUE VAUGHAN ON L4K 5R6
29 [REDACTED]
08 [REDACTED]
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13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

OF DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. AS EVIDENCED BY THE
CERTIFICATE OF AMALGAMATION DATED MAY 15, 2013.

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

CERTIFIED BY/CERTIFIÉES PAR
K. [Signature]
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTREUR
DES BIENS MOBILIERS
(e12/r 11/2008)



REPORT : PSSR060
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(8324)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115106.83

TYPE OF SEARCH : BUSINESS DESTOR

SEARCH REQUESTED ON : DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
DATE : 28 AUG 2013

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DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

161 BAY STREET, SUITE 2300 TORONTO

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

101 EXCHANGE AVENUE VAUGHAN

EQUITY FINANCIAL TRUST COMPANY, AS COLLATERAL AGENT

200 UNIVERSITY AVENUE, SUITE 400 TORONTO

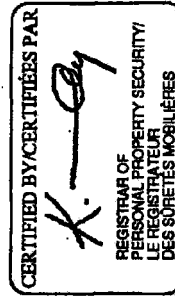
NORTON ROSE CANADA LLP (AR/HR)

200 BAY ST., SUITE 3800, SOUTH TOWER TORONTO

ON MSJ 224

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6



(e/11r 112008)



REPORT : PSSR060
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(8336)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115106.83

BUSINESS DESTOR
DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
28ADG 2013

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01 001 1 20110427 1723 1590 0758 P PPSA 10

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DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

161 BAY STREET, SUITE 2300

TORONTO

ON M5J 2S1

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EQUITY FINANCIAL TRUST COMPANY, AS COLLATERAL AGENT

200 UNIVERSITY AVENUE, SUITE 400

TORONTO

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STIKEMAN ELLIOTT LLP

5300 - COMMERCE COURT WEST 199 BAY STRE TORONTO

ON M5L 1B9

CERTIFIED BY/CERTIFIÉES PAR
K. [Signature]
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTREUR DES
SÛRETÉS MOBILIÈRES
(cfr 11/2008)

CONTINUED... 8



REPORT : PSR060
PAGE : 10
(8329)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

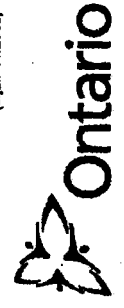
RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115106.83

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
28AUG 2013

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CERTIFIED BY/CERTIFIÉES PAR
K. [Signature]
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES
(e/sr 11/2008)





CERTIFIED BY/CERTIFIÉES PAR
K. [Signature]
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SOCIÉTÉS MOBILIÈRES
(s/21/11/2008)

CONTINUED... 12

REPORT : PSSR060
PAGE : 11
(8330)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115106.83

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
28 AUG 2013

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16 [REDACTED]

17 [REDACTED]

OF DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. AS EVIDENCED BY THE
CERTIFICATE OF AMALGAMATION DATED MAY 15, 2013.

RUN NUMBER : 241
 RUN DATE : 2013/08/29
 ID : 20130829115106.83
 PROVINCE OF ONTARIO
 MINISTRY OF GOVERNMENT SERVICES
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
 ENQUIRY RESPONSE
 CERTIFICATE
 REPORT : PSSR060
 PAGE : 12
 (8331)

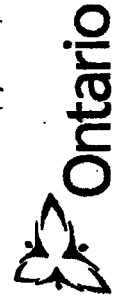
TYPE OF SEARCH : BUSINESS DEBTOR
 SEARCH CONDUCTED ON : DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
 FILE CURRENCY : 28AUG 2013

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
684332757	20130125 1652 1862 7436	20130517 1200 1862 5728	
684332766	20130125 1652 1862 7437		
684332775	20130125 1652 1862 7438		
669398067	20110427 1723 1590 0758		
669398076	20110427 1723 1590 0759		
669398085	20110427 1724 1590 0760	20130517 1200 1862 5727	

CERTIFIED BY/CERTIFIÉES PAR

 REGISTRAR OF
 PERSONAL PROPERTY SECURITY/
 LE REGISTRATEUR
 DES SÛRETÉS MOBILIÈRES
 (e/2 11/2008)



8 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115139.04

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 1
(8332)

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR

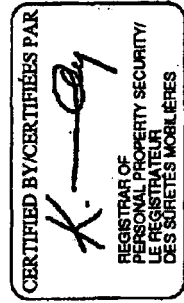
SEARCH CONDUCTED ON : DATA & AUDIO-VISUAL ENTERPRISS HOLDINGS INC.

FILE CURRENCY : 28AUG 2013

ENQUIRY NUMBER 20130829115139.04 CONTAINS 12 PAGE(S), 6 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

ESC - SUSAN
400-445 KING STREET WEST
TORONTO ON M5V 1K4



CONTINUED... 2

945



CERTIFIED BY/CERTIFIÉES PAR
K. [Signature]
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES
(c/2R 11/2008)

CONTINUED... 4

ON M5J 2Z4

NORTON ROSE CANADA LLP (AR/HR)
200 BAY ST., SUITE 3800, SOUTH TOWER
TORONTO

ON M5J 2S1

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
161 BAY STREET, SUITE 2300
TORONTO

DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

DEBTOR NAME CHANGE AS A RESULT OF THE AMALGAMATION OF DATA &
AUDIO-VISUAL ENTERPRISES WIRELESS INC. AND DATA & AUDIO-VISUAL
ENTERPRISES LEASING INC. TO CONTINUE AS ONE COMPANY UNDER THE NAME

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
28 AUG 2013

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 3
(8334)

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115139.04

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CERTIFIED BY/CERTIFIÉES PAR
K. [Signature]
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES
(e/21r 11/2008)

CONTINUED ...

REPORT : PSSR060
PAGE : 4
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PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115139.04

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
28AUG 2013

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23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED] OF DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. AS EVIDENCED BY THE
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02/ [REDACTED]
05 [REDACTED] DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
06 [REDACTED]
04/07 [REDACTED] 101 EXCHANGE AVENUE
[REDACTED] ON L4K 5R6
29 [REDACTED]
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RUN NUMBER : 241
 RUN DATE : 2013/08/29
 ID : 20130829115139.04

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 8
(8339)

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
28AUG 2013

00 669398076

Case No.	Date	Page
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DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

ON M5J 2S1

EQUITY FINANCIAL TRUST COMPANY, AS COLLATERAL AGENT

200 UNIVERSITY AVENUE, SUITE 400 TORONTO ON M5H 4H1

STIKEMAN ELLIOTT LLP

5300 - COMMERCE COURT WEST 199 BAY STRE TORONTO ON M5L 1B9

CONTINUED...

CERTIFIED BY/CERTIFIÉES PAR

**REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTREUR
DES SURETÉS MOBILIÈRES**



REPORT : PSSR060
PAGE : 10
(8341)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115139.04

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
28AUG 2013

SEARCHING PAGE 1 OF 1

20130517 1200 1862 5727

01 001 669398085

22 X AMENDMENT

23 DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

24

25 DEBTOR NAME CHANGE AS A RESULT OF THE AMALGAMATION OF DATA &
26 AUDIO-VISUAL ENTERPRISES WIRELESS INC. AND DATA & AUDIO-VISUAL
27 ENTERPRISES LEASING INC. TO CONTINUE AS ONE COMPANY UNDER THE NAME
28

02/ DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
03/ DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
04/07 161 BAY STREET, SUITE 2300 TORONTO

ON M5J 2B1

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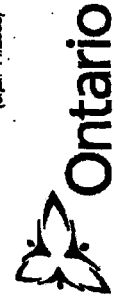
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CERTIFIED BY/CERTIFIÉES PAR
K. [Signature]
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES
(c28-11/2008)



NORTON ROSE CANADA LLP (AR/HR)
200 BAY ST., SUITE 3800, SOUTH TOWER TORONTO

CONTINUED... 11

REPORT : PSSR060
PAGE : 12
(8343)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

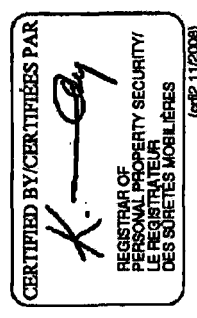
RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115139.04

TYPE OF SEARCH : BUSINESS DEBTOR
SEARCH CONDUCTED ON : DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
FILE CURRENCY : 28AUG 2013

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
684332757	20130125 1652 1862 7436	20130517 1200 1862 5728	
684332766	20130125 1652 1862 7437		
684332775	20130125 1652 1862 7438		
669398067	20110427 1723 1590 0758		
669398076	20110427 1723 1590 0759		
669398085	20110427 1724 1590 0760	20130517 1200 1862 5727	

8 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115211.58

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 1
(8344)

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR

SEARCH CONDUCTED ON : DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

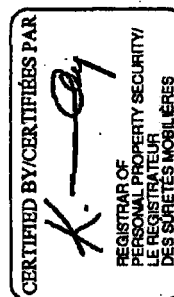
FILE CURRENCY : 28AUG 2013

ENQUIRY NUMBER 20130829115211.58 CONTAINS 12 PAGE(S), 6 FAMILY(IES).

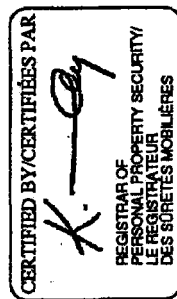
THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

ESC - SUSAN

400-445 KING STREET WEST
TORONTO ON M5V 1K4



CONTINUED... 2



(c28-11/2008)

REPORT : P5SR060
PAGE : 3
(8346)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115211.58

BUSINESS DEBTOR

DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.
28AUG 2013

20130517 1200 1862 5728

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DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

DEBTOR NAME CHANGE AS A RESULT OF THE AMALGAMATION OF DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. AND DATA & AUDIO-VISUAL ENTERPRISES LEASING INC. TO CONTINUE AS ONE COMPANY UNDER THE NAME

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

161 BAY STREET, SUITE 2300

TORONTO

ON M5J 2S1

NORTON ROSE CANADA LLP (AR/HR)
200 BAY ST., SUITE 3800, SOUTH TOWER

TORONTO

ON M5J 2Z4

CONTINUED...

4

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115211.58

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

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PAGE : 4
(8347)

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.
28 AUG 2013

NOT RECORDED CHANGE IN STATUS / PLACE / ADDRESS

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002 002 20130517 1200 1862 5728

684332757

OF DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. AS EVIDENCED BY THE
CERTIFICATE OF AMALGAMATION DATED MAY 15, 2013.

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

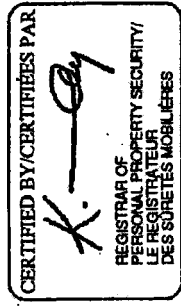
101 EXCHANGE AVENUE

VAUGHAN

ON L4K 5R6

CONTINUED...

5



REPORT : PSSR060
PAGE : 5
(8348)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
 RUN DATE : 2013/08/29
 ID : 20130829115211.58

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.
28AUG 2013

TYPE OF SEARCH
SEARCH CONDUCTED ON
FILE CURRENCY

00 684332766

01	001	001
01	001	001

02
03
DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

161 BAY STREET. SUITE 2300
TORONTO ON M5J 2S1

05

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

09 BOITTY FINANCIAL TRUST COMPANY AS COLLATERAL AGENT

09 200 UNIVERSITY AVENUE, SUITE 400 TORONTO ON M5H 4H1

COLLATION CLASSIFICATION

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המחלקה הכלכלית (מ/מ)

[illegible]

Call 1-800-962-7626 for more information | 800.962.7626

CONTINUED

CERTIFIED BY/CERTIFIÉS PAR
K. Bay
**REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRATEUR
DES SÛRETÉS MOBILIÈRES**
(certifié 11/2008)



RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115211.58

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

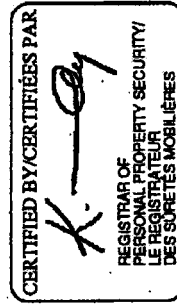
REPORT : PSSR060
PAGE : 6
(8349)

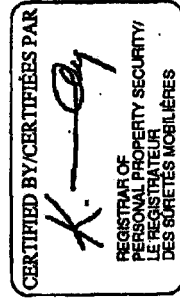
BUSINESS DEBTOR

DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.
28 AUG 2013

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03	001	001	161 BAY STREET, SUITE 2300	TORONTO	
04	001	001	DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.		
05	001	001	101 EXCHANGE AVENUE	VAUGHAN	
06	001	001	EQUITY FINANCIAL TRUST COMPANY, AS COLLATERAL AGENT		
07	001	001	200 UNIVERSITY AVENUE, SUITE 400	TORONTO	
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16	001	001	NORTON ROSE CANADA LLP (AR/HR)		
17	001	001	200 BAY ST., SUITE 3800, SOUTH TOWER	TORONTO	

CONTINUED...





REPORT : PSSR060
PAGE : 7
(8350)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115211.58

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.
28 AUG 2013

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CONTINUED ... 8

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115211.58

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : P8SR060
PAGE : 8
(8351)

BUSINESS DEBTOR

DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.
28AUG 2013

669398076

001

20110427 1723 1590 0759 P PPSA

10

DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

161 BAY STREET, SUITE 2300 TORONTO

ON M5J 2S1

EQUITY FINANCIAL TRUST COMPANY, AS COLLATERAL AGENT

200 UNIVERSITY AVENUE, SUITE 400 TORONTO

ON M5H 4H1

STIKEMAN ELLIOTT LLP

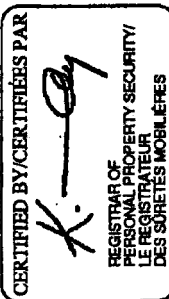
5300 - COMMERCE COURT WEST 199 BAY STRE TORONTO

ON M5L 1B9

ON M5L 1B9

CONTINUED...

9



REPORT : PSSR060
PAGE : 10
(8353)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
 RUN DATE : 2013/08/29
 ID : 20130829115211.58

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.
28AUG 2013

01	001	20130517 1200 1862 5727
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DECLINING TO TESTIFY
X
CHARGE OF OBSTRUCTION OF JUSTICE
A AMENDMENT

OFFICIALS OF THE DISTRICT OF COLUMBIA

DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

226 DEFECTOR NAME CHANGE AS A RESULT OF THE AMALCAMATION OF DATA &
227 AUDIO-VISUAL ENTERPRISES WIRELESS INC. AND DATA & AUDIO-VISUAL
228 ENTERPRISES LEASING INC. TO CONTINUE AS ONE COMPANY UNDER THE NAME

LET'S TALK BUSINESS
TRANSMISSIONS
DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

00 04/07 161 BAY STREET, SUITE 2300

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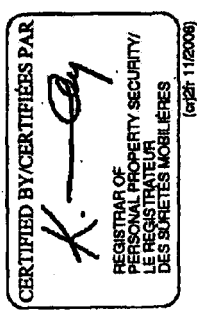
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CONTINUED... 11

CERTIFIED BY/CERTIFIÉES PAR
K. — Bay
REGISTRAR OF
PERSONAL PROPERTY SECURITY/
LE REGISTRAIREUR
DES SÛRETÉS MOBILIÈRES





REPORT : PSSR060
PAGE : 11
(8354)

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115211.58

BUSINESS DEBTOR
DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.
28AUG 2013

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OF DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC. AS EVIDENCED BY THE
CERTIFICATE OF AMALGAMATION DATED MAY 15, 2013.

CONTINUED... 12

RUN NUMBER : 241
RUN DATE : 2013/08/29
ID : 20130829115211.58

PROVINCE OF ONTARIO
MINISTRY OF GOVERNMENT SERVICES
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM
ENQUIRY RESPONSE
CERTIFICATE

REPORT : PSSR060
PAGE : 12
(8355)

TYPE OF SEARCH : BUSINESS DEBTOR

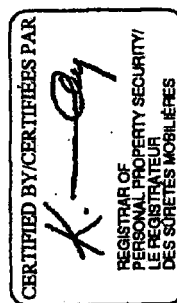
SEARCH CONDUCTED ON : DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.

FILE CURRENCY : 28AUG 2013

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
684332757	20130125 1652 1862 7436	20130517 1200 1862 5728	
684332766	20130125 1652 1862 7437		
684332775	20130125 1652 1862 7438		
669398067	20110427 1723 1590 0758		
669398076	20110427 1723 1590 0759		
669398085	20110427 1724 1590 0760	20130517 1200 1862 5727	

8 REGISTRATION(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.



Search ID#: Z04961200

Transmitting Party

WEST-END REGISTRATIONS LICENSING & SEARCHES LTD.
P158)
10011 170 STREET
EDMONTON, AB T5P 4R5

Party Code: 50076967
Phone #: 780 483 8211
Reference #: 00486239-7872

Search ID #: Z04961200

Date of Search: 2013-Aug-29

Time of Search: 09:16:20

Business Debtor Search For:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

Both Exact and Inexact Result(s) Found

NOTE:

A complete Search may result in a Report of Exact and Inexact Matches.

Be sure to read the reports carefully.



Search ID#: Z04961200

Business Debtor Search For:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

Search ID #: Z04961200

Date of Search: 2013-Aug-29

Time of Search: 09:16:20

Registration Number: 11042802985

Registration Type: SECURITY AGREEMENT

Registration Date: 2011-Apr-28

Registration Status: Current

Expiry Date: 2021-Apr-28 23:59:59

Exact Match on: Debtor

No: 1

Debtor(s)**Block****Status**

1 DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
161 Bay Street, Suite 2300
Toronto, ON M5J 2S1

Current

Secured Party / Parties**Block****Status**

1 EQUITY FINANCIAL TRUST COMPANY, AS COLLATERAL AGENT
200 University Avenue, Suite 400
Toronto, ON M5H 4H1

Current

Collateral: General**Block****Description****Status**

1 All present and after acquired personal property of the debtor.

Current

Particulars**Block****Additional Information****Status**

1 The complete address and name for secured party number 1 is as follows:

Current

Equity Financial Trust Company, as Collateral Agent
Attention: Corporate Trust
200 University Avenue, Suite 400
Toronto, ON M5H 4H1

Search ID#: Z04961200

Business Debtor Search For:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

Search ID #: Z04961200

Date of Search: 2013-Aug-29

Time of Search: 09:16:20

Registration Number: 11042803005

Registration Type: SECURITY AGREEMENT

Registration Date: 2011-Apr-28

Registration Status: Current

Expiry Date: 2021-Apr-28 23:59:59

Inexact Match on: Debtor

No: 1

Debtor(s)**Block****Status**

1 DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.
161 Bay Street, Suite 2300
Toronto, ON M5J 2S1

Current

Secured Party / Parties**Block****Status**

1 EQUITY FINANCIAL TRUST COMPANY, AS COLLATERAL AGENT
200 University Avenue, Suite 400
Toronto, ON M5H 4H1

Current

Collateral: General**Block****Description****Status**

1 All present and after acquired personal property of the debtor.

Current

Particulars**Block****Additional Information****Status**

1 The complete address and name for secured party number 1 is as follows:

Current

Equity Financial Trust Company, as Collateral Agent
Attention: Corporate Trust
200 University Avenue, Suite 400
Toronto, ON M5H 4H1

Search ID#: Z04961200

Business Debtor Search For:

DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.

Search ID #: Z04961200

Date of Search: 2013-Aug-29

Time of Search: 09:16:20

Registration Number: 11042803023

Registration Type: SECURITY AGREEMENT

Registration Date: 2011-Apr-28

Registration Status: Current

Expiry Date: 2021-Apr-28 23:59:59

Exact Match on: Debtor

No: 2

Amendments to Registration

13051716132

Amendment

2013-May-17

Debtor(s)**Block**

1 DATA & AUDIO-VISUAL ENTERPRISES LEASING INC.
161 Bay Street, Suite 2300
Toronto, ON M5J 2S1

StatusDeleted by
13051716132**Block**

2 DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.
161 Bay Street, Suite 2300
Toronto, ON M5J 2S1

StatusCurrent by
13051716132**Secured Party / Parties****Block**

1 EQUITY FINANCIAL TRUST COMPANY, AS COLLATERAL AGENT
200 University Avenue, Suite 400
Toronto, ON M5H 4H1

Status

Current

Collateral: General**Block****Description**

1 All present and after acquired personal property of the debtor.

Status

Current

Particulars

Confidential Exhibit “GG”

(intentionally omitted)

Tab 3

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	● DAY, THE ●
	)	
JUSTICE ●	)	DAY OF SEPTEMBER, 2013

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Applicants

INITIAL ORDER

THIS APPLICATION, made by Data & Audio-Visual Enterprises Holdings Inc., Data & Audio-Visual Enterprises Wireless Inc. and 8440522 Canada Inc. (collectively, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of William E. Aziz sworn September 29, 2013 and the Exhibits thereto (the "Aziz Affidavit"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, Ernst & Young Inc. (as the proposed Monitor), the Ad Hoc Committee of Noteholders (as defined in the Aziz Affidavit), the DIP Lenders (as defined in the Aziz Affidavit), The Catalyst Capital Group Inc. and Equity Financial Trust Company, no one else appearing although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of Ernst & Young Inc. to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the

Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of its business (the "Business") and Property. The Applicants shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel, including counsel to any board of directors of the Applicants, and such other persons (collectively "Assistants") currently retained or employed by any of them, with liberty to retain, subject to the prior approval of the Chief Restructuring Officer, such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicants shall be entitled to continue to utilize the cash management systems currently in place with, among others, National Bank, TIO Networks Corp., and Chase Paymentech Solutions ("Paymentech") as described in the Aziz Affidavit or, with the consent of the DIP Lenders, replace those systems with other substantially similar central cash management systems (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the

Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that, subject to the terms and conditions of the DIP Loan Agreement, including the applicable terms therein that refer to the cash flow forecast approved by the DIP Lenders pursuant to the DIP Loan Agreement (the "Cash Flow Forecast"), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, commissions, employee benefits, vacation pay (excluding any severance or termination payments without the consent of the Chief Restructuring Officer (as defined below) and the DIP Lenders) and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) any amounts owing to Dealers (as such term is defined in the Aziz Affidavit) and incurred in the ordinary course of business and consistent with existing Dealer compensation policies and arrangements, subject to the prior approval of the Chief Restructuring Officer; and
- (c) the reasonable fees and disbursements of any Assistants retained or employed by an Applicant in respect of these proceedings, at their standard rates and charges, subject to the prior approval of the Chief Restructuring Officer.

7. THIS COURT ORDERS that the Applicants shall be authorized but not required to continue to perform and provide services for which customers of any of the Applicants prepaid prior to the date of this Order in the ordinary course.

8. THIS COURT ORDERS that, subject to the terms and conditions of and availability under the DIP Loan Agreement, including the applicable terms therein that refer to the Cash

Flow Forecast, and except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services, subject to the prior approval of the Chief Restructuring Officer; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

9. THIS COURT ORDERS that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants, subject to the prior approval of the Chief Restructuring Officer.

10. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, monthly in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. THIS COURT ORDERS that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their respective Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. THIS COURT ORDERS that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$500,000 in any one transaction or \$2,000,000 in the aggregate, subject to the prior approval of the Chief Restructuring Officer.
- (b) terminate the employment of such of their employees as they deem appropriate, subject to the prior approval of the Chief Restructuring Officer;
- (c) disclaim, in whole or in part, with prior consent of the Monitor and the DIP Lenders or further Order of the Court, such of their arrangements or agreements, whether oral or written, as the Applicants deem appropriate, in accordance with Section 32 of the CCAA, with such disclaimers to be on such terms as may be agreed upon between the Applicants and such counter-parties, or failing such agreement, with the

consequences thereof to be dealt with in the Plan; and

- (d) pursue all avenues of refinancing and offers for material parts of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing or sale,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "Restructuring").

13. THIS COURT ORDERS that an Applicant shall provide each of the relevant landlords with notice of that Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the applicable Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the applicable Applicant, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If an Applicant disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to that Applicant's claim to the fixtures in dispute.

14. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against an Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. THIS COURT ORDERS that until and including October 30, 2013, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of any of the Applicants, the Monitor, the DIP Lenders, the holders of the Bridge Notes (in such capacities, the "Bridge Lenders") or Equity Financial Trust Company (in its capacity as Trustee and Collateral Agent under the Bridge Notes, the DIP Facility and the First Lien Notes (as such term is defined in the Aziz Affidavit)) (in such capacity, the "Trustee") or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court. This Paragraph 15 shall apply to Proceedings commenced or continued against or in respect of the Trustee, DIP Lenders or the Bridge Lenders solely to the extent that such Proceedings relate to the DIP Lenders' or the Bridge Lenders' lending arrangements with the Applicants.

NO EXERCISE OF RIGHTS OR REMEDIES

16. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of any of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

17. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Applicants, except with

the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

18. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with any of the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, including without limitation National Bank and Paymentech, TIO Networks Corp., payroll services, insurance, transportation services, utility or other services to the Business or any of the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by any of the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable Applicant in accordance with normal payment practices of that Applicant or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to any of the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such

obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. THIS COURT ORDERS that each Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of that Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

22. THIS COURT ORDERS that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$550,000, as security for the indemnity provided in paragraph 21 of this Order. The Directors' Charge shall have the priority set out in paragraphs 53 and 55 herein.

23. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) an Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 21 of this Order.

APPOINTMENT OF MONITOR

24. THIS COURT ORDERS that Ernst & Young Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

25. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and

obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in its dissemination, to the DIP Lenders and its counsel at the times required under the DIP Loan Agreement (as such term is defined in the Aziz Affidavit) of financial and other information as agreed to between the Applicants and the DIP Lenders which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lenders;
- (d) advise the Applicants in its preparation of the Applicants' cash flow statements and reporting required by the DIP Lenders, which information shall be reviewed with the Monitor and delivered to the DIP Lenders and their counsel on a periodic basis at the times required in the DIP Loan Agreement, or as otherwise agreed to by the DIP Lenders;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (h) assist the Applicants, to the extent required by the Applicants, with their restructuring activities and/or any sale of the Property and the Business or any part thereof;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and

performance of its obligations under this Order; and

- (j) perform such other duties as are required by this Order or by this Court from time to time.

26. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

27. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

28. THIS COURT ORDERS that the Monitor shall provide any creditor of an Applicant and the DIP Lenders with information provided by that Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by any of the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

29. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or

obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

30. THIS COURT ORDERS that, subject to the terms and conditions of and availability under the DIP Loan Agreement, including the applicable terms therein that refer to the Cash Flow Forecast, and the prior approval of the Chief Restructuring Officer (i) the Monitor, counsel to the Monitor, counsel to the Applicants, counsel to the DIP Lenders and the Ad Hoc Committee of Noteholders, and the Trustee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings; and (ii) the Financial Advisors and the Chief Restructuring Officer (each as defined in the Aziz Affidavit) shall be paid their reasonable fees and disbursements, in each case in accordance with the terms of the Engagement Letters (as defined in the Aziz Affidavit). The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicants and counsel for the DIP Lenders and the Ad Hoc Committee of Noteholders on a weekly basis, or on such basis as otherwise agreed by the Applicants and the applicable payee. The Applicants are hereby authorized and directed to pay amounts owing to the Chief Restructuring Officer in accordance with the terms of its Engagement Letter monthly in advance.

31. THIS COURT ORDERS that if requested by the Applicants, the DIP Lenders, or this Court, the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

32. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, the Applicants' counsel, counsel for the DIP Lenders and the Ad Hoc Committee of Noteholders, the Financial Advisors, the Chief Restructuring Officer and counsel to any board of directors of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$10,000,000, as security for their professional fees and disbursements incurred (i) at the standard rates and charges of the Monitor and such counsel both before and after the making of this Order in respect of these proceedings; or (ii) as prescribed in the Engagement Letters in the case of the Financial Advisors and the Chief Restructuring Officer. The Administration Charge shall have

the priority set out in paragraphs 53 and 55 hereof.

APPROVAL OF FINANCIAL ADVISORS' ENGAGEMENT

33. THIS COURT ORDERS that the Applicants are authorized to continue the engagement of the Financial Advisors on the terms and conditions set out in the FA Engagement Letters (as such term is defined in the Aziz Affidavit).

34. THIS COURT ORDERS that the FA Engagement Letters be and are hereby ratified and confirmed and the Applicants are authorized to perform their obligations thereunder.

35. THIS COURT ORDERS that any obligations of the Applicants under the FA Engagement Letters, whether for payment of fees, expenses, indemnities or otherwise, shall be entitled to the benefit of the Administration Charge.

36. THIS COURT ORDERS that any claims of the Financial Advisors under the FA Engagement Letters shall be treated as unaffected in any Plan.

APPOINTMENT OF CHIEF RESTRUCTURING OFFICER

37. THIS COURT ORDERS that the Applicants are authorized to continue the engagement of BlueTree Advisors II Inc. as Chief Restructuring Officer (in such capacity, the "Chief Restructuring Officer") on the terms and conditions set out in the CRO Engagement Letter (as such term is defined in the Aziz Affidavit).

38. THIS COURT ORDERS that the CRO Engagement Letter be and is hereby ratified and confirmed and the Applicants are authorized to perform their obligations thereunder.

39. THIS COURT ORDERS that any obligations of the Applicants under the CRO Engagement Letter, whether for payment of fees, expenses, indemnities or otherwise, shall be entitled to the benefit of the Administration Charge.

40. THIS COURT ORDERS that any claims of the Chief Restructuring Officer under the CRO Engagement Letter shall be treated as unaffected in any Plan.

DIP FINANCING

41. THIS COURT ORDERS that the Applicants are hereby authorized and empowered to

obtain and borrow under a credit facility (the "DIP Facility") from the DIP Lenders in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under the DIP Facility shall not exceed the amounts prescribed in the DIP Loan Agreement.

42. THIS COURT ORDERS that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Loan Agreement.

43. THIS COURT ORDERS that the DIP Facility and the DIP Loan Agreement be and are hereby approved.

44. THIS COURT ORDERS that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the DIP Loan Agreement or as may be reasonably required by the DIP Lenders pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lenders under and pursuant to the DIP Loan Agreement and the other Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

45. THIS COURT ORDERS that the DIP Lenders shall be entitled to the benefit of and are hereby granted a charge (the "**DIP Lenders' Charge**") on the Property as security for any and all obligations of the Applicants under the DIP Loan Agreement and the Definitive Documents (including on account of principle, interest, fees, expenses and other liabilities) (the aggregate of all such obligations being the "**DIP Indebtedness**"), which DIP Lenders' Charge shall be in the aggregate amount of the DIP Indebtedness outstanding at any given time. The DIP Lenders' Charge shall not secure an obligation that exists before this Order is made. The DIP Lenders' Charge shall have the priority set out in paragraphs 53 and 55 hereof.

46. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) the DIP Lenders may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the DIP Lenders' Charge or any of the Definitive Documents;

- (b) upon the occurrence of an event of default under the DIP Loan Agreement, the Definitive Documents or the DIP Lenders' Charge (A) the DIP Lenders may cease making advances to the Applicants, (B) the DIP Lenders may (i) set off and/or consolidate any amounts owing by the DIP Lenders to the Applicants against the obligations of the Applicants to the DIP Lenders under the DIP Loan Agreement, the Definitive Documents, or the DIP Lenders' Charge and make demand, accelerate payment and give other notices, and (ii) following an Order of the Court, granted on 5 days' notice to the Applicants and the Monitor, exercise any and all of their respective rights and remedies against the Applicants or the Property under or pursuant to the DIP Loan Agreement, the Definitive Documents, the DIP Lenders' Charge, or the *Personal Property Security Act* of Ontario or any other applicable jurisdiction, including without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicants;
- (c) the foregoing rights and remedies of the DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property; and
- (d) notwithstanding any other provision hereof, the DIP Lenders shall not take any steps to enforce their security granted in connection with DIP Loan Agreement or the Definitive Documents without prior approval of the Court.

47. THIS COURT ORDERS AND DECLARES that the DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by any of the Applicants under the CCAA, or any proposal (the "Proposal") filed by any of the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

48. THIS COURT ORDERS that the obligations under the Bridge Notes, the DIP Loan Agreement and the Definitive Documents shall be treated as unaffected by any Plan or any Proposal and the Applicants shall not file a Plan in these proceedings or any Proposal that does not provide for the indefeasible payment in full in cash of the obligations outstanding in respect of the Bridge Notes, the DIP Loan Agreement and the Definitive Documents as a pre-condition

to the implementation of any such Plan.

49. THIS COURT ORDERS that, subject to the terms of this Order, including without limitation paragraph 11, the Applicants are hereby authorized and empowered to take all steps and actions in respect of, and comply with all of their obligations pursuant to, the Bridge Notes and such other agreements, security documents, guarantees and other definitive documents as executed in connection with the Bridge Notes.

KEY EMPLOYEE RETENTION PLAN

50. THIS COURT ORDERS that the payments to be made pursuant to the Key Employee Retention Plan (as such terms are defined in the Aziz Affidavit) as described in the supplemental employment agreements of the Key Employees (as such term is defined in the Aziz Affidavit), which are attached as confidential exhibits to the Aziz Affidavit, are hereby approved and the Applicants are authorized and directed to make payments in accordance with the terms of such supplemental employment agreements.

51. THIS COURT ORDERS that the Key Employees shall be entitled to the benefit of and are hereby granted a charge (the “**KERP Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$600,000, to secure the amounts payable to the Key Employees pursuant to paragraph 50 of this Order.

52. THIS COURT ORDERS that the KERP Charge shall have the priority set forth in paragraphs 53 and 55.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

53. THIS COURT ORDERS that the priorities of the Directors’ Charge, the Administration Charge, the DIP Lenders’ Charge, and the KERP Charge as among them and relative to the liens securing the obligations under the First Lien Notes and the Bridge Notes, shall be as follows:

- (a) First, liens securing obligations under the First Lien Notes and the First Lien Notes Indenture (as defined in the Aziz Affidavit) (collectively, the “First Lien Notes Liens”);
- (b) Second, the Administration Charge and the KERP Charge on a *pari passu* basis;

(c) Third, the Directors' Charge;

(d) Fourth, the DIP Lenders' Charge and the liens securing the obligations under the Bridge Notes, on a *pari passu* basis.

54. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge, the KERP Charge or the DIP Lenders' Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

55. THIS COURT ORDERS that each of the Directors' Charge, the Administration Charge, the KERP Charge and the DIP Lenders' Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person with the exception of the First Lien Notes Liens and the Encumbrances ranking in priority to the First Lien Notes Liens.

56. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge or the DIP Lenders' Charge, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lenders and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

57. THIS COURT ORDERS that the Directors' Charge, the Administration Charge, the KERP Charge, the Definitive Documents and the DIP Lenders' Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") and/or the DIP Lenders thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of

Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP Loan Agreement or the Definitive Documents shall create or be deemed to constitute a breach by an Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from an Applicant entering into the DIP Loan Agreement, the creation of the Charges, or the execution, delivery or performance of the other Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the DIP Loan Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

58. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in an Applicant's interest in such real property leases.

59. THIS COURT ORDERS that the deposit accounts held by Paymentech and containing cash collateral pledged to Paymentech in an amount not to exceed \$1,200,000 shall be excluded from the DIP Lenders' Charge, the Administration Charge, the KERP Charge and the Directors' Charge and shall be held as security for any Chargebacks (as such term is defined in the Select Merchant Application and Agreement dated as of April 16, 2010 between Wireless and Paymentech) arising after the date of this Order.

SERVICE AND NOTICE

60. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner

prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against an Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder. The list included in subparagraph (C) above shall not include the names, addresses or estimated amounts of the claims of those creditors who are individuals or any personal information in respect of an individual.

61. THIS COURT ORDERS that the Applicants and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

62. THIS COURT ORDERS that the Applicants, the Monitor, the DIP Lenders, the Ad Hoc Committee of Noteholders and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at www.ey.com/ca/mobilicity.

SEALING OF CONFIDENTIAL EXHIBITS

63. THIS COURT ORDERS that Confidential Exhibits "K", "L" and "W" through "DD" be and are hereby sealed pending further Order of the Court and shall not form part of the public record.

GENERAL

64. THIS COURT ORDERS that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

65. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting

as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of an Applicant, the Business or the Property.

66. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

67. THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

68. THIS COURT ORDERS that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order; provided, however, that the DIP Lenders shall be entitled to rely on this Order as issued for all advances made under the DIP Loan Agreement and Definitive Documents up to and including the date this Order may be varied or amended.

69. THIS COURT ORDERS that, notwithstanding the immediately preceding paragraph, no order shall be made varying, rescinding or otherwise affecting the provisions of this Order with respect to the DIP Loan Agreement and the Definitive Documents, including, without limitation, Paragraphs 42 to 49, and 53 to 58, inclusive, unless notice of a motion is served on the Monitor, the Applicants and the DIP Lenders, returnable no later than October 9, 2013.

70. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 8440522
CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-
VISUAL ENTERPRISES HOLDINGS INC.

Court File No:

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST Proceeding commenced at Toronto	
INITIAL ORDER	
Norton Rose Fulbright Canada LLP Royal Bank Plaza, South Tower, Suite 3800 200 Bay Street, P.O. Box 84 Toronto, Ontario M5J 2Z4 CANADA Orestes Pasparakis LSUC#: 36851T Tel: (416) 216-4815 Email: Orestes.Pasparakis@nortonrosefulbright.com	
Robert Frank LSUC#: 35456F TEL: (416) 202-6741 Email: Robert.Frank@nortonrosefulbright.com	
Virginie Gauthier LSUC#: 41097D Tel: (416) 216-4853 Email: Virginie.Gauthier@nortonrosefulbright.com	
Evan Cobb LSUC#: 55787N Tel: (416) 216-1929 / Fax: (416) 216-3930 Email: Evan.Cobb@nortonrosefulbright.com	
	Lawyers for the Applicants

Tab 4

January 15, 2010

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE _____) _____ DAY, THE _____
JUSTICE _____) DAY OF _____, 20__

THE HONOURABLE _____) ● DAY THE ●
JUSTICE ●) DAY OF SEPTEMBER, 2013

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
[APPLICANT'S NAME] (the "Applicant")
OF 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Applicants

INITIAL ORDER

THIS APPLICATION, made by the Applicant Data & Audio-Visual Enterprises Holdings Inc., Data & Audio-Visual Enterprises Wireless Inc. and 8440522 Canada Inc. (collectively, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of [NAME] William E. Aziz sworn [DATE] September 29, 2013 and the Exhibits thereto (the "Aziz Affidavit"), and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for [NAMES], no one appearing for [NAME] the Applicants, Ernst & Young Inc. (as the proposed Monitor), the Ad Hoc Committee of Noteholders (as defined in the Aziz Affidavit), the DIP Lenders (as defined in the Aziz Affidavit), The Catalyst Capital Group Inc. and Equity Financial Trust Company, no one else appearing

¹ Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).

although duly served as appears from the affidavit of service of [NAME] sworn [DATE] and on reading the consent of [MONITOR'S NAME] Ernst & Young Inc. to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated² so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the ~~Applicant is a company~~ Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

3. THIS COURT ORDERS that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

4. THIS COURT ORDERS that the Applicants shall remain in possession and control of ~~its~~ their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of its business (the "Business") and Property. The Applicants shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel, including counsel to any board of directors of the Applicants, and such other persons (collectively "Assistants") currently retained or employed by ~~it~~ any of them, with liberty to retain, subject to the prior approval of the Chief Restructuring Officer, such further Assistants as ~~it~~ they deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

² ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

5. ~~{THIS COURT ORDERS that the Applicants shall be entitled to continue to utilize the central cash management system³systems currently in place with, among others, National Bank, TIO Networks Corp., and Chase Paymentech Solutions ("Paymentech") as described in the Aziz Affidavit of [NAME] sworn [DATE] or, with the consent of the DIP Lenders, replace itthose systems with anotherother substantially similar central cash management systems (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.}~~

6. ~~THIS COURT ORDERS that the Applicant, subject to the terms and conditions of the DIP Loan Agreement, including the applicable terms therein that refer to the cash flow forecast approved by the DIP Lenders pursuant to the DIP Loan Agreement (the "Cash Flow Forecast"), the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:~~

- ~~(a) all outstanding and future wages, salaries, commissions, employee and pension benefits, vacation pay (excluding any severance or termination payments without the consent of the Chief Restructuring Officer (as defined below) and the DIP Lenders) and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and~~
- ~~(b) any amounts owing to Dealers (as such term is defined in the Aziz Affidavit) and incurred in the ordinary course of business and consistent with existing Dealer~~

³~~This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross-border and inter-company transfers of cash.~~

compensation policies and arrangements, subject to the prior approval of the Chief Restructuring Officer; and

- (c) ~~(b)~~ the reasonable fees and disbursements of any Assistants retained or employed by ~~the~~ an Applicant in respect of these proceedings, at their standard rates and charges, subject to the prior approval of the Chief Restructuring Officer.

7. THIS COURT ORDERS that the Applicants shall be authorized but not required to continue to perform and provide services for which customers of any of the Applicants prepaid prior to the date of this Order in the ordinary course.

8. 7.-THIS COURT ORDERS that, subject to the terms and conditions of and availability under the DIP Loan Agreement, including the applicable terms therein that refer to the Cash Flow Forecast, and except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services, subject to the prior approval of the Chief Restructuring Officer; and
- (b) payment for goods or services actually supplied to the Applicants following the date of this Order.

9. 8.-THIS COURT ORDERS that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or

collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the ~~Applicant~~Applicants, subject to the prior approval of the Chief Restructuring Officer.

10. ~~9.~~ THIS COURT ORDERS that until a real property lease is disclaimed [~~or resiliated~~]⁴ in accordance with the CCAA, the ~~Applicants~~ shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the ~~Applicants~~ and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, ~~twice monthly in equal payments on the first and fifteenth day of each month,~~monthly in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

11. ~~10.~~ THIS COURT ORDERS that, except as specifically permitted herein, the ~~Applicants~~ ~~is~~are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by any of the ~~Applicants~~ to any of ~~its~~their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of ~~its~~their respective Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

12. ~~11.~~ THIS COURT ORDERS that the ~~Applicants~~ shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as hereinafter defined), have the right to:

⁴ ~~The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.~~

- (a) permanently or temporarily cease, downsize or shut down any of ~~its~~their business or operations, ~~and to dispose of redundant or non-material assets not exceeding \$•500,000 in any one transaction or \$•2,000,000 in the aggregate}~~⁵, subject to the prior approval of the Chief Restructuring Officer.
- (b) ~~terminate the employment of such of its employees or temporarily lay off such of its~~their employees as ~~it~~they deems appropriate;⁶ and, subject to the prior approval of the Chief Restructuring Officer:
- (c) disclaim, in whole or in part, with prior consent of the Monitor and the DIP Lenders or further Order of the Court, such of their arrangements or agreements, whether oral or written, as the Applicants deem appropriate, in accordance with Section 32 of the CCAA, with such disclaimers to be on such terms as may be agreed upon between the Applicants and such counter-parties, or failing such agreement, with the consequences thereof to be dealt with in the Plan; and
- (d) (e)-pursue all avenues of refinancing and offers for material parts of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing or sale,

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "Restructuring").

13. ~~12.~~ THIS COURT ORDERS that ~~the~~an Applicant shall provide each of the relevant landlords with notice of ~~the~~at Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the applicable Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the applicable Applicant, or by further Order of this Court upon application by the Applicants on at

⁵ Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.

⁶ It is not clear to the Model Order Subcommittee whether the termination of an employee is a "disclaimer or resiliation" of the employment agreement within the meaning of Section 32 of the amended CCAA; since the termination of an employee may not be a matter governed by Section 32 of the amended CCAA (except to the extent that collective agreements are exempted from the application of that Section), the Subcommittee has left this provision in the Model Order.

least two (2) days notice to such landlord and any such secured creditors. If ~~the~~an Applicant disclaims ~~[or resiliates]~~ the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer ~~[or resiliation]~~ of the lease shall be without prejudice to ~~the~~at Applicant's claim to the fixtures in dispute.

14. ~~13.~~ THIS COURT ORDERS that if a notice of disclaimer ~~[or resiliation]~~ is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer ~~[or resiliation]~~, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicants and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer ~~[or resiliation]~~, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against ~~the~~an Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicants of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

15. ~~14.~~ THIS COURT ORDERS that until and including ~~[DATE MAX. 30 DAYS]~~October 30, 2013, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of any of the Applicant or the Monitor, Applicants, the Monitor, the DIP Lenders, the holders of the Bridge Notes (in such capacities, the "Bridge Lenders") or Equity Financial Trust Company (in its capacity as Trustee and Collateral Agent under the Bridge Notes, the DIP Facility and the First Lien Notes (as such term is defined in the Aziz Affidavit)) (in such capacity, the "Trustee") or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court. This Paragraph 15 shall apply to Proceedings commenced or continued against or in respect of the Trustee, DIP Lenders or the Bridge Lenders solely to the extent that such

Proceedings relate to the DIP Lenders' or the Bridge Lenders' lending arrangements with the Applicants.

NO EXERCISE OF RIGHTS OR REMEDIES

16. ~~15.~~ THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of any of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants ~~is~~ are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

17. ~~16.~~ THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any of the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

18. ~~17.~~ THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with any of the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, including without limitation National Bank and Paymentech, TIO Networks Corp., payroll services, insurance, transportation services, utility or other services to the Business or any of the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by any of the Applicants, and that the Applicants shall be entitled to the continued use of ~~its~~ their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the applicable Applicant in accordance with normal payment practices of ~~the~~ that Applicant or such

other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

19. ~~18.~~ THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to any of the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.⁷

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

20. ~~19.~~ THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of any of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of any of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

21. ~~20.~~ THIS COURT ORDERS that ~~the each~~ Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of ~~the at~~ Applicant after the commencement of the within proceedings,⁸ except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

⁷ This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).

⁸ The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors' Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.

22. ~~21.~~ THIS COURT ORDERS that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge")⁹ on the Property, which charge shall not exceed an aggregate amount of \$~~●~~550,000, as security for the indemnity provided in paragraph ~~{20}~~1 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~{538}~~ and ~~{40}~~55 herein.

23. ~~22.~~ THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) ~~the an~~ Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~{20}~~1 of this Order.

APPOINTMENT OF MONITOR

24. ~~23.~~ THIS COURT ORDERS that ~~[MONITOR'S NAME]~~Ernst & Young Inc. is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and ~~its~~their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

25. ~~24.~~ THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the ~~Applicant's~~Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in its dissemination, to the DIP Lenders and its counsel ~~on a [TIME INTERVAL] basis~~at the times required

⁹ Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the Applicant could obtain adequate indemnification insurance for the director or officer at a reasonable cost.

under the DIP Loan Agreement (as such term is defined in the Aziz Affidavit) of financial and other information as agreed to between the Applicants and the DIP Lenders which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lenders;

- (d) advise the Applicants in its preparation of the ~~Applicant's~~ Applicants' cash flow statements and reporting required by the DIP Lenders, which information shall be reviewed with the Monitor and delivered to the DIP Lenders and ~~its~~ their counsel on a periodic basis, ~~but not less than [TIME INTERVAL]~~ at the times required in the DIP Loan Agreement, or as otherwise agreed to by the DIP Lenders;
- (e) advise the Applicants in ~~its~~ their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the ~~Applicant's~~ Applicants' business and financial affairs or to perform its duties arising under this Order;
- (h) assist the Applicants, to the extent required by the Applicants, with their restructuring activities and/or any sale of the Property and the Business or any part thereof;
- (i) ~~(h)~~ be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (j) ~~(i)~~ perform such other duties as are required by this Order or by this Court from time to time.

26. ~~25.~~ THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

27. ~~26.~~ THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

28. ~~27.~~ THIS COURT ORDERS ~~that~~ that the Monitor shall provide any creditor of ~~the~~an Applicant and the DIP Lenders with information provided by ~~the~~at Applicant in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by any of the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

29. ~~28.~~ THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

30. ~~29.~~ THIS COURT ORDERS ~~that the Monitor, counsel to the Monitor and counsel to the Applicant, subject to the terms and conditions of and availability under the DIP Loan Agreement, including the applicable terms therein that refer to the Cash Flow Forecast, and the prior approval of the Chief Restructuring Officer (i) the Monitor, counsel to the Monitor, counsel~~

to the Applicants, counsel to the DIP Lenders and the Ad Hoc Committee of Noteholders, and the Trustee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicant is; and (ii) the Financial Advisors and the Chief Restructuring Officer (each as defined in the Aziz Affidavit) shall be paid their reasonable fees and disbursements, in each case in accordance with the terms of the Engagement Letters (as defined in the Aziz Affidavit). The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicant on a [TIME INTERVAL] basis and, in addition, the Applicant is, counsel for the Applicants and counsel for the DIP Lenders and the Ad Hoc Committee of Noteholders on a weekly basis, or on such basis as otherwise agreed by the Applicants and the applicable payee. The Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the amount[s] of \$●[-, respectively,] to be held by them as security for payment of their respective fees and disbursements outstanding from time to time and directed to pay amounts owing to the Chief Restructuring Officer in accordance with the terms of its Engagement Letter monthly in advance.

31. 30. THIS COURT ORDERS that if requested by the Applicants, the DIP Lenders, or this Court, the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

32. 31. THIS COURT ORDERS that the Monitor, counsel to the Monitor, if any, and the Applicant's Applicants' counsel, counsel for the DIP Lenders and the Ad Hoc Committee of Noteholders, the Financial Advisors, the Chief Restructuring Officer and counsel to any board of directors of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$●10,000,000, as security for their professional fees and disbursements incurred (i) at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings; or (ii) as prescribed in the Engagement Letters in the case of the Financial Advisors and the Chief Restructuring Officer. The Administration Charge shall have the priority set out in paragraphs [538] and [40]55 hereof.

APPROVAL OF FINANCIAL ADVISORS' ENGAGEMENT

33. THIS COURT ORDERS that the Applicants are authorized to continue the engagement of the Financial Advisors on the terms and conditions set out in the FA Engagement Letters (as such term is defined in the Aziz Affidavit).

34. THIS COURT ORDERS that the FA Engagement Letters be and are hereby ratified and confirmed and the Applicants are authorized to perform their obligations thereunder.

35. THIS COURT ORDERS that any obligations of the Applicants under the FA Engagement Letters, whether for payment of fees, expenses, indemnities or otherwise, shall be entitled to the benefit of the Administration Charge.

36. THIS COURT ORDERS that any claims of the Financial Advisors under the FA Engagement Letters shall be treated as unaffected in any Plan.

APPOINTMENT OF CHIEF RESTRUCTURING OFFICER

37. THIS COURT ORDERS that the Applicants are authorized to continue the engagement of BlueTree Advisors II Inc. as Chief Restructuring Officer (in such capacity, the "Chief Restructuring Officer") on the terms and conditions set out in the CRO Engagement Letter (as such term is defined in the Aziz Affidavit).

38. THIS COURT ORDERS that the CRO Engagement Letter be and is hereby ratified and confirmed and the Applicants are authorized to perform their obligations thereunder.

39. THIS COURT ORDERS that any obligations of the Applicants under the CRO Engagement Letter, whether for payment of fees, expenses, indemnities or otherwise, shall be entitled to the benefit of the Administration Charge.

40. THIS COURT ORDERS that any claims of the Chief Restructuring Officer under the CRO Engagement Letter shall be treated as unaffected in any Plan.

DIP FINANCING

41. 32- THIS COURT ORDERS that the Applicants ~~is~~ are hereby authorized and empowered to obtain and borrow under a credit facility from ~~[DIP LENDER'S NAME]~~ (the "~~DIP Lender~~") "DIP Facility") from the DIP Lenders in order to finance the Applicant's ~~Applicants'~~ working capital requirements and other general corporate purposes and capital expenditures,

provided that borrowings under such credit ~~the DIP Facility~~ shall not exceed \$● unless permitted by further Order of this Court the amounts prescribed in the DIP Loan Agreement.

42. THIS COURT ORDERS that the DIP Facility shall be on the terms and subject to the conditions set forth in the DIP Loan Agreement.

43. 33. THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the DIP Lender dated as of [DATE] (the "Commitment Letter"), filed that the DIP Facility and the DIP Loan Agreement be and are hereby approved.

44. 34. THIS COURT ORDERS that the Applicants ~~is~~ are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the ~~Commitment Letter~~ DIP Loan Agreement or as may be reasonably required by the DIP Lenders pursuant to the terms thereof, and the Applicants ~~is~~ are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lenders under and pursuant to the ~~Commitment Letter~~ DIP Loan Agreement and the other Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

45. 35. THIS COURT ORDERS that the DIP Lenders shall be entitled to the benefit of and ~~is~~ are hereby granted a charge (the "DIP Lender's Lenders' Charge") on the Property, ~~which DIP Lender's as security for any and all obligations of the Applicants under the DIP Loan Agreement and the Definitive Documents (including on account of principle, interest, fees, expenses and other liabilities) (the aggregate of all such obligations being the "DIP Indebtedness").~~ which DIP Lenders' Charge shall be in the aggregate amount of the DIP Indebtedness outstanding at any given time. The DIP Lenders' Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Lenders' Charge shall have the priority set out in paragraphs ~~{538}~~ and ~~{40}~~ 55 hereof.

46. 36. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) the DIP Lenders may take such steps from time to time as ~~it~~ they may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Lenders' Charge or any of the Definitive Documents;

- (b) upon the occurrence of an event of default under the DIP Loan Agreement, the Definitive Documents or the DIP Lender's Lenders' Charge, ~~(A) the DIP Lender, upon 5 days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to~~ Lenders may cease making advances to the Applicant ~~and Applicants.~~ (B) the DIP Lenders may (i) set off and/or consolidate any amounts owing by the DIP Lenders to the Applicants against the obligations of the Applicants to the DIP Lenders under the Commitment Letter DIP Loan Agreement, the Definitive Documents, or the DIP Lender's Lenders' Charge, ~~to~~ and make demand, accelerate payment and give other notices, ~~or~~ and (ii) following an Order of the Court, granted on 5 days' notice to the Applicants and the Monitor, exercise any and all of their respective rights and remedies against the Applicants or the Property under or pursuant to the DIP Loan Agreement, the Definitive Documents, the DIP Lenders' Charge, or the Personal Property Security Act of Ontario or any other applicable jurisdiction, including without limitation, to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicants and for the appointment of a trustee in bankruptcy of the Applicant; and Applicants;
- (c) the foregoing rights and remedies of the DIP Lenders shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property; ~~and~~
- (d) notwithstanding any other provision hereof, the DIP Lenders shall not take any steps to enforce their security granted in connection with DIP Loan Agreement or the Definitive Documents without prior approval of the Court.

47. 37. THIS COURT ORDERS AND DECLARES that the DIP Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by any of the Applicants under the CCAA, or any proposal (the "Proposal") filed by any of the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

48. THIS COURT ORDERS that the obligations under the Bridge Notes, the DIP Loan Agreement and the Definitive Documents shall be treated as unaffected by any Plan or any Proposal and the Applicants shall not file a Plan in these proceedings or any Proposal that does not provide for the indefeasible payment in full in cash of the obligations outstanding in respect of the Bridge Notes, the DIP Loan Agreement and the Definitive Documents as a pre-condition to the implementation of any such Plan.

49. THIS COURT ORDERS that, subject to the terms of this Order, including without limitation paragraph 11, the Applicants are hereby authorized and empowered to take all steps and actions in respect of, and comply with all of their obligations pursuant to, the Bridge Notes and such other agreements, security documents, guarantees and other definitive documents as executed in connection with the Bridge Notes.

KEY EMPLOYEE RETENTION PLAN

50. THIS COURT ORDERS that the payments to be made pursuant to the Key Employee Retention Plan (as such terms are defined in the Aziz Affidavit) as described in the supplemental employment agreements of the Key Employees (as such term is defined in the Aziz Affidavit), which are attached as confidential exhibits to the Aziz Affidavit, are hereby approved and the Applicants are authorized and directed to make payments in accordance with the terms of such supplemental employment agreements.

51. THIS COURT ORDERS that the Key Employees shall be entitled to the benefit of and are hereby granted a charge (the "KERP Charge") on the Property, which charge shall not exceed an aggregate amount of \$600,000, to secure the amounts payable to the Key Employees pursuant to paragraph 50 of this Order.

52. THIS COURT ORDERS that the KERP Charge shall have the priority set forth in paragraphs 53 and 55.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

53. ~~38.~~ THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge, the DIP Lenders' Charge, and the DIP Lender's KERP Charge, as

among them and relative to the liens securing the obligations under the First Lien Notes and the Bridge Notes, shall be as follows¹⁰:

- (a) First—, liens securing obligations under the First Lien Notes and the First Lien Notes Indenture (as defined in the Aziz Affidavit) (collectively, the "First Lien Notes Liens"):
- (b) Second, the Administration Charge (to the maximum amount of \$●) and the KERP Charge on a *pari passu* basis;

Second—DIP Lender's Charge; and
- (c) Third—, the Directors' Charge; (to the maximum amount of \$●)
- (d) Fourth, the DIP Lenders' Charge and the liens securing the obligations under the Bridge Notes, on a *pari passu* basis.

54. ~~39.~~ THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge, the KERP Charge or the DIP ~~Lender's~~ Lenders' Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

55. ~~40.~~ THIS COURT ORDERS that each of the Directors' Charge, the Administration Charge, the KERP Charge and the DIP ~~Lender's~~ Lenders' Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person with the exception of the First Lien Notes Liens and the Encumbrances ranking in priority to the First Lien Notes Liens.

56. ~~41.~~ THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the

¹⁰ ~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

Administration Charge or the DIP ~~Lender's~~Lenders' Charge, unless the Applicants also obtains the prior written consent of the Monitor, the DIP ~~Lenders~~ and the beneficiaries of the Directors' Charge and the Administration Charge, or further Order of this Court.

57. ~~42.~~ THIS COURT ORDERS that the Directors' Charge, the Administration Charge, the ~~Commitment Letter~~KERP Charge, the Definitive Documents and the DIP ~~Lender's~~Lenders' Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") and/or the DIP ~~Lenders~~ thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the ~~Commitment Letter~~DIP Loan Agreement or the Definitive Documents shall create or be deemed to constitute a breach by ~~the~~an Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from ~~the~~an Applicant entering into the ~~Commitment Letter~~DIP Loan Agreement, the creation of the Charges, or the execution, delivery or performance of the other Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the ~~Commitment Letter~~DIP Loan Agreement or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

58. ~~43.~~ THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in ~~the~~an Applicant's interest in such real property leases.

59. THIS COURT ORDERS that the deposit accounts held by Paymentech and containing cash collateral pledged to Paymentech in an amount not to exceed \$1,200,000 shall be excluded from the DIP Lenders' Charge, the Administration Charge, the KERP Charge and the Directors' Charge and shall be held as security for any Chargebacks (as such term is defined in the Select Merchant Application and Agreement dated as of April 16, 2010 between Wireless and Paymentech) arising after the date of this Order.

SERVICE AND NOTICE

60. ~~44.~~ THIS COURT ORDERS that the Monitor shall (i) without delay, publish in ~~[newspapers specified by the Court]~~the Globe & Mail (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against ~~the~~an Applicant of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder. The list included in subparagraph (C) above shall not include the names, addresses or estimated amounts of the claims of those creditors who are individuals or any personal information in respect of an individual.

61. ~~45.~~ THIS COURT ORDERS that the Applicants and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the ~~Applicant's~~Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

62. ~~46.~~ THIS COURT ORDERS that the Applicants, the Monitor, ~~the DIP Lenders, the Ad Hoc Committee of Noteholders~~ and any party who has filed a Notice of Appearance may serve

any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at ~~[INSERT WEBSITE ADDRESS]~~ www.ey.com/ca/mobilicity.

SEALING OF CONFIDENTIAL EXHIBITS

63. ~~THIS COURT ORDERS that Confidential Exhibits "K", "L" and "W" through "DD" be and are hereby sealed pending further Order of the Court and shall not form part of the public record.~~

GENERAL

64. ~~47-~~THIS COURT ORDERS that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

65. ~~48-~~THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of ~~the~~ an Applicant, the Business or the Property.

66. ~~49-~~THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

67. ~~50-~~THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

68. ~~51.~~ THIS COURT ORDERS that any interested party (including the Applicants and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order; provided, however, that the DIP Lenders shall be entitled to rely on this Order as issued for all advances made under the DIP Loan Agreement and Definitive Documents up to and including the date this Order may be varied or amended.

69. THIS COURT ORDERS that, notwithstanding the immediately preceding paragraph, no order shall be made varying, rescinding or otherwise affecting the provisions of this Order with respect to the DIP Loan Agreement and the Definitive Documents, including, without limitation, Paragraphs 42 to 49, and 53 to 58, inclusive, unless notice of a motion is served on the Monitor, the Applicants and the DIP Lenders, returnable no later than October 9, 2013.

70. ~~52.~~ THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 8440522
CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA &
AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Court File No: _____

<u>ONTARIO</u> <u>SUPERIOR COURT OF JUSTICE</u> <u>COMMERCIAL LIST</u> Proceeding commenced at <u>Toronto</u>	
<u>INITIAL ORDER</u>	
<u>Norton Rose Fulbright Canada LLP</u> <u>Royal Bank Plaza, South Tower, Suite 3800</u> <u>200 Bay Street, P.O. Box 84</u> <u>Toronto, Ontario M5J 2Z4, CANADA</u> <u>Orestes Pasparakis LSUC# 36851T</u> <u>Tel: (416) 216-4815</u> <u>Email: Orestes.Pasparakis@nortonrosefulbright.ca</u> <u>Robert Frank LSUC# 35456E</u> <u>TEL: (416) 202-6741</u> <u>Email: Robert.Frank@nortonrosefulbright.com</u> <u>Virginie Gauthier LSUC# 41097D</u> <u>Tel: (416) 216-4853</u> <u>Email: Virginie.Gauthier@nortonrosefulbright.com</u> <u>Evan Cobb LSUC# 55787N</u> <u>Tel: (416) 216-1929 / Fax: (416) 216-3930</u> <u>Email: Evan.Cobb@nortonrosefulbright.com</u> <u>Lawyers for the Applicants</u>	

Tab 5

Court File No.

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF 8440522 CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC.,
AND DATA & AUDIO-VISUAL ENTERPRISES HOLDINGS INC.

Applicants

CONSENT

Ernst & Young Inc. hereby consents to act as Monitor in the above-captioned proceedings pursuant to an Initial Order substantially in the form attached.

DATED AT TORONTO, ONTARIO this 25th day of September, 2013

ERNST & YOUNG INC.

Per:

A handwritten signature in black ink, appearing to read 'Mike P. Dean', written over a horizontal line.

Mike P. Dean
Senior Vice President

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

Court File No:

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 8440522
CANADA INC., DATA & AUDIO-VISUAL ENTERPRISES WIRELESS INC., AND DATA & AUDIO-
VISUAL ENTERPRISES HOLDINGS INC.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**APPLICATION RECORD
(Returnable September 30, 2013)**

Norton Rose Fulbright Canada LLP
Royal Bank Plaza, South Tower, Suite 3800
200 Bay Street, P.O. Box 84
Toronto, Ontario M5J 2Z4 CANADA

Orestes Pasparakis LSUC#: 36851T
Tel: (416) 216-4815
Email: Orestes.Pasparakis@nortonrosefulbright.com

Robert Frank LSUC#: 35456F
TEL: (416) 202-6741
Email: Robert.Frank@nortnorosefulbright.com

Virginie Gauthier LSUC#: 41097D
Tel: (416) 216-4853
Email: Virginie.Gauthier@nortonrosefulbright.com

Evan Cobb LSUC#: 55787N
Tel: (416) 216-1929 / Fax: (416) 216-3930
Email: Evan.Cobb@nortonrosefulbright.com

Fax: (416) 216-3930

Lawyers for the Applicants