
ASSET TRANSFER AGREEMENT

BETWEEN

VICWEST CORPORATION

AND

VICWEST OPERATING LIMITED PARTNERSHIP

Dated as of July 1, 2005

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ASSET TRANSFER AGREEMENT

THIS ASSET TRANSFER AGREEMENT (the “**Agreement**”), dated as of July 1, 2005, between Vicwest Corporation, a corporation amalgamated under the laws of the Province of Ontario (the “**Transferor**”) and Vicwest Operating Limited Partnership, a partnership established under the laws of the Province of Manitoba (the “**Transferee**”).

WHEREAS, the Transferor is engaged in the fabrication, marketing and distribution of a variety of metal construction and steel containment products; the manufacture of agricultural bins for grain, seed and fertilizers; and the manufacture of petroleum storage tanks primarily for the oil and gas industry (the “**Business**”) and such Business is currently carried on by the Transferor within the Territory;

WHEREAS, the Transferor has entered into a plan of arrangement (the “**Plan of Arrangement**”), which Plan of Arrangement will be effective as of July 1, 2005;

WHEREAS, in connection with the implementation of the Plan of Arrangement, the Transferee desires to acquire from the Transferor and the Transferor desires to transfer to the Transferee all of the assets (except for the Excluded Assets) used in connection with the Business, which assets are all further described below, upon the terms and conditions set forth in this Agreement and in accordance with the terms of the Plan of Arrangement; and

WHEREAS, capitalized terms used herein shall have the respective meanings set forth in Section 1.1.

NOW, THEREFORE, in consideration of the mutual promises contained herein, The Transferor and The Transferee hereby agree as follows:

ARTICLE I – INTERPRETATION

1.1 Definitions.

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

“**Accounts Receivable**” has the meaning set forth in Section 2.1(g).

“**Accounts Payable**” has the meaning set forth in Section 2.6(f).

“**Affiliate**” means, with respect to any specified Person, any other Person that, directly or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with such specified Person.

“**Agreement**” has the meaning set forth in the preamble hereto.

“**Amended and Restated Credit Agreement**” means the Amended and Restated Credit Agreement to be entered into among the Transferor, the Transferee, certain

Affiliates of the Transferor and Transferee, the Persons who from time to time are parties thereto as “Lenders” and GE Canada Finance Holding Company, as agent for such Persons, on or about July 1, 2005.

“**Ancillary Agreements**” means the Bill of Sale, Assignment and Assumption Agreement, and all other certificates or documents to be delivered pursuant to this Agreement.

“**Annual Financial Statements**” has the meaning set forth in Section 5.4.

“**Assets**” has the meaning set forth in Section 2.1.

“**Assumed Benefit Plans**” shall mean the Deferred Profit Sharing Plan for Employees of Vicwest, a Division of Vicwest Corporation, the Employees Profit Sharing Plan for Employees of Vicwest, a division of Vicwest Corporation, the Pension Plan “E” for Hourly-Rated Employees of Westeel Limited, and the Deferred Profit Sharing Plan for Employees of Westeel Limited.

“**Assumed Contracts**” has the meaning set forth in Section 2.1(f).

“**Assumed Liabilities**” has the meaning set forth in Section 2.6.

“**Benefit Plans**” shall mean the Assumed Benefit Plans together with the Retirement Income Plan.

“**Bill of Sale, Assignment and Assumption Agreement**” has the meaning set forth in Section 4.2(a).

“**Business**” has the meaning ascribed to it in the preamble hereto.

“**Business Day**” means a day other than Saturday, Sunday or any day on which banks located in the Province of Ontario are authorized or obligated to close.

“**Claim**” has the meaning set forth in Section 7.4.

“**Closing**” has the meaning set forth in Section 4.1.

“**Collective Bargaining Agreements**” shall mean those collective bargaining agreements in existence as of the date hereof, which agreements govern the employment of those employees located at the plants in Victoriaville, Quebec; Saskatoon, Saskatchewan; Oakville, Ontario; Surrey, British Columbia; Winnipeg, Manitoba; and Regina, Saskatchewan.

“**Contract**” means any agreement, lease, evidence of indebtedness, mortgage, indenture, security agreement or other contract, commitment or obligation, in each case, whether written or oral.

“**Control**” means, as to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of

voting securities, by Contract or otherwise. The term “**Controlled**” shall have a correlative meaning.

“**Effective Date**” has the meaning set forth in Section 4.1.

“**Encumbrances**” has the meaning set forth in Section 2.1.

“**Environmental Audit**” has the meaning set forth in Section 5.18(f).

“**Environmental Law**” has the meaning set forth in Section 5.18(a)(ii).

“**Environmental Permit**” has the meaning set forth in Section 5.18(e).

“**Equipment**” has the meaning attributed to such term in Section 2.1(e).

“**Excluded Agreements**” has the meaning set forth in Section 2.5(g).

“**Excluded Assets**” has the meaning set forth in Section 2.5.

“**Excluded Bank Accounts**” has the meaning set forth in Section 2.5(h).

“**Excluded Employees**” shall mean Robert Skull, Jack Wilson, Corey Eng, Gwen Hughes, Joe Raposo and Allison Ringwald.

“**Existing Security Agreements**” shall mean those following security agreements entered into on September 12, 2003: (i) General Security Agreement by Vicwest Corporation in favour of GE Canada Finance Inc., as agent; (ii) General Security Agreement by 359856 Alberta Ltd. in favour of GE Canada Finance Inc., as agent; (iii) General Security Agreement by Cancom Equity Fund in favour of GE Canada Finance Inc., as agent; (iv) General Security Agreement by CEF Limited Partnership No. 2 in favour of GE Canada Finance Inc., as agent; (v) General Security Agreement by Westeel Limited in favour of GE Canada Finance Inc., as agent; (vi) General Security Agreement by Dumbarton Construction Limited in favour of GE Canada Finance Inc., as agent; (vii) General Security Agreement by 153810 Canada Inc. in favour of GE Canada Finance Inc., as agent; (viii) Pledge Agreement granted by Vicwest Corporation in favour of GE Canada Finance Inc., as agent; (ix) Deed of Hypothec granted by Vicwest Corporation; (x) Deed of Hypothec granted by Westeel Limited; (xi) General Security Agreement by U.S. Westeel Corporation in favour of GE Canada Finance Inc., as agent dated March 18, 2004.

“**GE Credit Facility**” means the debt facility made available to the Transferor pursuant to a Credit Agreement dated September 12, 2003 between Vicwest Corporation (predecessor to the Transferor), GE Canada Finance Inc., as agent, and the lenders thereunder from time to time.

“**GE Credit Balance**” means the amount drawn and currently owing (including, without limitation, in respect of letters of credit), together with all interest, fees and expenses accrued and not paid, under the GE Credit Facility.

“**Governmental Authority**” means any federal, provincial, state or local or any foreign government, governmental, regulatory or administrative authority, agency or commission or any court, tribunal or judicial or arbitral body.

“**Governmental Charge**” means all taxes, duties, levies, assessments, reassessments and other charges together with all related penalties, interest and fines, payable in respect of periods ending on or before Closing to any domestic or foreign government (federal, provincial, state, municipal or otherwise) or to any regulatory authority, agency, commission or board of any domestic or foreign government, or imposed by any court or any other law, regulation or rule making entity having jurisdiction in the relevant circumstances, applicable to any of the Parties or the Business.

“**GST**” shall have the meaning set forth in Section 3.5.

“**Hazardous Material**” has the meaning set forth in Section 5.18(i).

“**HST**” shall have the meaning set forth in Section 3.5.

“**Indemnified Party**” has the meaning set forth in Section 7.4.

“**Indemnifying Party**” has the meaning set forth in Section 7.4.

“**Intellectual Property**” means the items set forth in Section 2.1(a).

“**Intellectual Property Rights**” shall have the meaning ascribed to it in Section 5.3.

“**Inventory**” means the inventory and supplies described in Section 2.1(c)(c).

“**Knowledge of the Transferor**” or any similar phrase means the knowledge of any member of senior management of the Transferor, in each case assuming that such individual has made reasonable inquiry, in light of the particular circumstances.

“**Latest Balance Sheet**” has the meaning set forth in Section 5.4.

“**Latest Financial Statements**” has the meaning set forth in Section 5.4.

“**Law**” means any Canadian federal, provincial or local or any foreign statute, law, ordinance, regulation, rule, code, order, other requirement or rule of law.

“**Leased Properties**” has the meaning ascribed to it in Section 2.1(g).

“**Losses**” shall have the meaning ascribed to it in Section 7.1.

“**Material Assumed Contracts**” has the meaning set forth in Section 5.11.

“**Order**” means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority.

“**Parties**” means the Transferee and the Transferor, and “**Party**” shall refer to either of them.

“**Partnership Units**” means Units and limited partner units of the Transferee.

“**Permits**” has the meaning ascribed to such term in Section 5.17.

“**Permitted Encumbrances**” has the meaning set forth in Section 5.7(b).

“**Person**” means any natural person, general or limited partnership, corporation, limited liability company, joint venture, joint stock company, trust, firm, association, unincorporated organization or other legal entity.

“**Plan of Arrangement**” has the meaning set forth in the preamble hereto.

“**Proceedings**” shall have the meaning ascribed to it in Section 5.13.

“**Products**” means all metal construction and steel containment products, all agricultural bins and all petroleum storage tanks sold by or on behalf of the Transferor which are sold to retailers, wholesalers and distributors for re-sale to consumers and which are produced by the Transferor.

“**Promissory Note**” means a demand, non-interest bearing promissory note of the Transferee issued in favour of the Transferor.

“**Property Leases**” has the meaning set forth in Section 2.1(h).

“**QST**” has the meaning set forth in Section 3.5.

“**Real Property**” has the meaning set forth in Section 2.1(j).

“**Release**” has the meaning set forth in Section 5.18(a)(iv).

“**Retained Liabilities**” has the meaning set forth in Section 2.7.

“**Retained Litigation**” means all rights, interest, obligations and liabilities in and to all present or future causes of action brought against or brought by (or on behalf of) the Transferor, including (but not limited to) such causes of action relating to creditor protection proceedings.

“**Retirement Income Plan**” means Retirement Income Plan for designated employees of Vicwest Corporation.

“**Returns**” has the meaning set forth in Section 3.2.

“**Straddle Period**” shall have the meaning set forth in Section 2.2(d).

“**Subsidiary**” shall mean, with respect to any entity, (a) any corporation, partnership, limited liability company, joint venture or other business association or entity in which at least a majority of the voting securities and economic interests are directly or indirectly owned by such entity or (b) any limited partnership in which such entity or any entity described in clause (a) is a general partner.

“**Transfer Price**” has the meaning set forth in Section 3.1.

“**Transfer Taxes**” has the meaning set forth in Section 3.5.

“**Transferee**” has the meaning set forth in the preamble hereto.

“**Transferred Employee**” has the meaning set forth in Section 2.2(a).

“**Transferor**” has the meaning set forth in the preamble hereto.

“**Transferor Subsidiaries**” shall mean the following entities: 1269580 Ontario Inc., 1269579 Ontario Inc., Arapaho Shoshoni Enterprises Company, 745674 Ontario Limited, 153810 Canada Inc., 3081877 Canada Inc., 359856 Alberta Ltd., Black Raven Enterprises LLC, 1466828 Ontario Inc., Cancom Equity Fund, CEF Limited Partnership No. 2, and U.S. Westeel Corporation.

“**Tax Act**” means the *Income Tax Act* (Canada) and the regulations promulgated thereunder.

“**Territory**” means primarily the construction markets in North America, but includes markets outside of North America as well.

“**Units**” means general partner units of the Transferee.

1.2 Headings.

The division of this Agreement into articles and sections and the insertion of headings are for the convenience of reference only and will not affect the construction or interpretation of this Agreement.

1.3 Gender and Number.

In this Agreement, words imparting the singular number only will include the plural and vice versa, and words imparting the masculine gender will include the feminine and neuter genders and vice versa.

1.4 Currency.

Unless otherwise expressly provided, all payments contemplated herein will be paid in Canadian funds, and all references herein to dollar amounts are references to dollars in the lawful currency of Canada.

ARTICLE II – TRANSFER OF ASSETS

2.1 Transfer of Assets.

On the terms and subject to the conditions set forth in this Agreement, the Transferor shall sell, convey, transfer, assign, grant and deliver to the Transferee, and the Transferee shall purchase, acquire and accept, as a going concern with all related goodwill, from the Transferor at Closing, the Transferor's right, title and interest in and to all property, assets and rights of every kind and description wheresoever situate of the Transferor, including (without limitation) the following specifically identified assets of the Transferor and those assets referred to in Sections 2.2, 2.3 and 2.4 (collectively, the "**Assets**"), free and clear of all liabilities, obligations, pledges, security interests, options, rights of first refusal, rights of first offer, liens, claims, encumbrances or charges of any nature (collectively, "**Encumbrances**") other than Permitted Encumbrances, and excluding those assets of the Transferor set forth in Section 2.5:

- (a) **Intellectual Property.** The registered trademarks, patents, copyrights, business names and product names currently used in the Business and all technical and commercial know-how vested in the Products and/or used in relation to the manufacture, packaging, marketing or sale of the Products (collectively, the "**Intellectual Property**"), all goodwill relating to the Intellectual Property, all pending applications for and registrations of any of the Intellectual Property and the right to sue for past infringement or payment, if any, in connection with the Intellectual Property.
- (b) **Licenses and Permits.** To the extent transferable and assignable, all rights of the Transferor in and to permits, licenses, approvals and authorizations by or of Governmental Authorities relating to or necessary to the Business or applicable to the Assets.
- (c) **Appraisal/Evaluation Reports.** All rights and benefits to the Transferor in and to property or environmental appraisal or evaluation reports compiled by an independent third party.
- (d) **Inventories and Supplies.** All of the Transferor's right, title and interest in all inventory including, all raw materials, work in process, finished goods, shipping supplies and packaging and labelling materials and supplies on hand.
- (e) **Personal Property and Equipment.** All of the Transferor's interest in all machinery, furniture, vehicles/trucks, parts, tools, computers, telephone systems, office and other equipment owned by the Transferor, including all tangible

personal property, fixtures and structures (that are not included in inventory) (the “**Equipment**”).

- (f) **Assumed Contracts.** All of the Transferor’s right, title, and interest in and to Contracts to which the Transferor is a party or by which the Transferor or the Assets are bound (collectively, the “**Assumed Contracts**”), subject to the provisions of Section 2.8, including any Contracts for which indemnities or warranties remain outstanding thereunder.
- (g) **Accounts Receivable.** All of the Transferor’s right, title and interest in all accounts receivable owing to the Transferor (collectively, the “**Accounts Receivable**”) that are outstanding as of the Closing.
- (h) **Leases.** All of the Transferor’s right, title and interest as a tenant under the leases of the real property leased by the Transferor (the “**Leased Properties**”) and the property therein demised, all benefits, rights and options pursuant to such leases and all leasehold improvements and trade fixtures forming part thereof (the “**Property Leases**”).
- (i) **Cash and Cash Equivalents.** Cash and cash equivalents, including bank accounts other than the Excluded Bank Accounts.
- (j) **Real Property.** The Transferor’s beneficial right, title and interest in and to all real property owned beneficially by the Transferor (the “**Real Property**”).
- (k) **Security Interests.** All of the Transferor’s right and interest to any security interests the Transferor may have against other third parties, whether registered or otherwise.
- (l) **Customer Lists.** All of the Transferor’s right, interest and title in and to customer lists used in connection with the Business, which lists shall be used for the same purposes as currently used for by the Transferor.
- (m) **Insurance.** All of the Transferor’s rights and interest in and to insurance policies held by the Transferor in connection with the operation of the Business.
- (n) **Subsidiaries.** All of the Transferor’s right, title and interest in and to shares in the capital of 153810 Canada Inc.

2.2 Employees

- (a) The Transferee shall be the successor employer of the unionized employees of the Transferor with respect to the Collective Bargaining Agreements, with effect as and from Closing.
- (b) Prior to Closing, the Transferee shall offer employment effective as of July 1, 2005 to each employee of the Transferor, other than those Excluded Employees and those employees subject to the Collective Bargaining Agreements. Each such

employee who accepts the Transferee's offer of employment or who is a unionized employee subject to a Collective Bargaining Agreement is hereinafter referred to as a "**Transferred Employee**". Effective from and after July 1, 2005 and subject to Section 2.2(d), the Transferee shall assume responsibility for all salary, severance, bonus obligations and employee benefits with respect to the Transferred Employees that accrue on and after July 1, 2005. The Transferee shall recognize all part service with the Transferor for the purposes of calculating the Transferred Employee's length of service for termination and severance pay.

- (c) The Transferee shall provide the Transferred Employees with salary, severance, bonus and employee benefits that are no less favourable (as a whole to each Transferred Employee) than those made available by the Transferor as of the date hereof. Without limiting the foregoing, the Transferee shall cause each Transferred Employee (and his or her eligible dependents) to be covered effective on and following July 1, 2005 by a group health plan that provides health benefits that does not limit or exclude coverage on the basis of any pre-existing condition of such Transferred Employee or dependent. To the extent that service is relevant for eligibility and vesting (and with respect to benefit accruals, solely for purposes of calculating entitlement to vacation and sick days) under any retirement plan, employee benefit plan, program or arrangement established or maintained by the Transferee for the benefit of the Transferred Employees, such plan, program or arrangement shall credit such Transferred Employees for service on or prior to July 1, 2005 with the Transferor or any affiliate thereof or predecessor of either such entity in the same manner and to the same extent that prior service is credited for service rendered to the Transferor under the Transferor's existing benefit plans. The Transferor shall remain responsible for all claims incurred by Transferred Employees prior to July 1, 2005 under the Transferor's group health plans and the Transferee shall be responsible for all claims incurred on or after July 1, 2005 under its group health plans. For purposes of clarification, a claim shall be considered incurred when the treatment for a given condition is provided, and not when the condition arose.
- (d) The Transferee shall assume responsibility for all payroll obligations (including without limitation the satisfaction of all payroll withholding tax obligations) for the Transferred Employees for all payroll periods ending after July 1, 2005. If July 1, 2005 takes place on a day such that a payroll period begins prior to July 1, 2005 and ends after July 1, 2005 (such payroll period, a "**Straddle Period**"), then the Transferee shall pay for the Transferor's proportionate share of the salaries, wages and payroll taxes (reduced by all amounts that the Transferor or its affiliates otherwise would have withheld for benefit plan coverages for the Transferor's portion of the Straddle Period) for the Transferred Employees for such Straddle Period.

2.3 Benefit/Pension Plans

Effective as of July 1, 2005, the Transferor shall transfer and assign to the Transferee any and all of the Transferor's rights, obligations, assets, liabilities and

responsibilities under and in relation to the Assumed Benefit Plans and related agreements including responsibility for all costs, expenses and funding required in respect of the Assumed Benefit Plans and the Transferee agrees to accept such transfer and assume such liabilities and responsibilities thereunder. As soon as practicable after July 1, 2005, the Transferee shall take, or shall have taken, all such actions as may be required under the terms of the Assumed Benefit Plans and any applicable laws, including the completion of plan amendments and regulatory filings, if any, in order to become the sponsor of the Assumed Benefit Plans. The Transferor and Transferee shall co-operate with one another in all respects necessary in order to complete the transfer and assignment of such Assumed Benefit Plans.

2.4 Other Benefits

The Transferee shall ensure that all *Employer Health Tax Act*, OHIP and other employee benefits coverage offered by the Transferor to its employees is provided without interruption to the Transferred Employees on and after Closing. The Transferor shall be responsible for all employee benefits currently enjoyed by employees of the Business, whether or not required by law, up to and including Closing.

2.5 Excluded Assets.

The Assets shall not include the following, which shall be retained by the Transferor or its Affiliates (the “**Excluded Assets**”):

- (a) **Certain Subsidiaries.** All of the Transferor’s right, title and interest in and to shares in the capital of the Transferor’s Subsidiaries, with the exception of the shares in the capital of 153810 Canada Inc.
- (b) **Transfer Agent/Depository Agreements.** The Transferor’s right, interest and title in and to the transfer agency agreement and depository agreement entered into between the Transferor, Vicwest Income Fund and Computershare Trust Company of Canada.
- (c) **Credit Agreement.** The Transferor’s right, interest and title to the GE Credit Facility and the Transferor’s right, interest and title to the Amended and Restated Credit Agreement, including the Existing Security Agreements.
- (d) **Employment Agreements.** The Transferor’s rights and interest in those current and existing employment agreements governing the employment by the Transferor of the Excluded Employees.
- (e) **Benefit/Pension Plans.** The assets under and the Transferor’s right, interest and title to the Retirement Income Plan.
- (f) **Litigation.** All of the Transferor’s right and interest in and to the benefits or proceeds of the Retained Litigation which may result from the success of any such cause of action.

- (g) **Existing Agreements.** All of the Transferor's right, title and interest in and to the following agreements, including the Existing Security Agreements: (i) the Escrow Agreement made as of September, 2003 among Vicwest Corporation, Goodmans LLP and Onex Corporation; (ii) the Restructuring and Lock-Up Agreement made as of March 31, 2003 among Vicwest Corporation, Brascan Financial Corporation, Deans Knight Capital Management Ltd., Mackenzie Financial Corporation, Tal Global Asset Management Inc., Investors Group Trust Co. Ltd., Jenisys Engineered Products, Inc. and Onex Corporation; (iii) the Administration Agreement made as of July 1, 2005 among the Transferor, Vicwest Income Fund and Vicwest Holding Trust; and (iv) the Exchange Agreement dated July 1, 2005 among the Transferor, Vicwest Income Fund and those persons who from time to time execute such agreement or are deemed to be a party thereof (collectively, the "**Excluded Agreements**").
- (h) **Bank Accounts.** All of the Transferor's right, title and interest in and to the all bank accounts of the Transferor (including blocked bank account agreements with the Royal Bank of Canada in respect of the lock boxes used for collection purposes) (the "**Excluded Bank Accounts**").
- (i) **Units.** All of the Transferor's right, title and interest in and to the 1 Unit held by Transferor as of immediately prior to the date hereof.
- (j) **Agreement.** All of the Transferor's right, title and interest in and to this Agreement.

2.6 Assumption of Liabilities.

On the terms and subject to the conditions of this Agreement, the Transferee shall, except as expressly excluded in this Agreement, assume and discharge all liabilities and obligations of the Transferor or any of its Affiliates of any kind, character or description whatsoever relating to the Business or the Assets, including (without limitation) the following specifically identified liabilities and obligations of the Transferor (the "**Assumed Liabilities**") and excluding those liabilities and obligations of the Transferor set out in Section 2.7:

- (a) **Intellectual Property.** All obligations or liabilities relating to the Intellectual Property.
- (b) **License and Permits.** To the extent transferable and assignable, all obligations and liabilities of the Transferor in and to permits, licences, approvals and authorizations by or of Governmental Authorities relating to or necessary to the Business or applicable to the Assets.
- (c) **Credit Balance.** All of the obligations and liabilities relating to the GE Credit Balance, which assumption of debt shall be on the terms and conditions of the Amended and Restated Credit Agreement (it being acknowledged that the Transferor remains liable for all of such obligations and liabilities as a primary obligor and guarantees the GE Credit Balance of the Transferee pursuant to the terms of the Amended and Restated Credit Agreement).

- (d) **Personal Property and Equipment.** All liabilities and obligations of the Transferor as they relate to the Equipment.
- (e) **Assumed Contracts.** All of the Transferor's obligations and liabilities as they relate to the Assumed Contracts, including any indemnity or warranty obligations arising thereunder.
- (f) **Accounts Payable.** All of the Transferor's obligations as they relate to accounts payable ("Accounts Payable") that are outstanding as of Closing.
- (g) **Leases.** All of the Transferor's obligations and liabilities as a tenant under the Property Leases.
- (h) **Insurance.** All of the Transferor's obligations as they relate to insurance policies held by the Transferor in connection with the operation of the Business.
- (i) **Employees.** All obligations of the Transferor relating to the employees of the Transferor, including (without limitation) obligations pursuant to the Collective Bargaining Agreements, employment contracts and Assumed Benefit Plans.

2.7 Retained Liabilities

The Assumed Liabilities shall not include the following, which shall be retained by the Transferor or its Affiliates (the "**Retained Liabilities**"):

- (a) **Transfer Agent/Depository Agreements.** All of the Transferor's obligations in respect of the transfer agency agreement and depository agreement entered into between the Transferor, Vicwest Income Fund and Computershare Trust Company of Canada.
- (a) **Credit Agreement.** Other than as set out in Section 2.6(c), all of the Transferor's obligations and liabilities in respect of the GE Credit Facility and loan documents delivered in connection therewith, including the Existing Security Agreements, and in respect of the Amended and Restated Credit Agreement.
- (b) **Employment Agreements.** All of the Transferor's obligations in respect of those current and existing employment agreements governing the employment by the Transferor of the Excluded Employees.
- (c) **Benefit/Pension Plans.** All of the Transferor's obligations and liabilities in respect of the Retirement Income Plan.
- (d) **Litigation.** All of the Transferor's liabilities and obligations relating to any Retained Litigation.
- (e) **Bank Accounts.** All of the Transferor's obligations and liabilities in and to the Excluded Bank Accounts.

- (f) **Units.** All of the Transferor's obligations and liabilities in and to the 1 Unit held by Transferor as of immediately prior to the date hereof.
- (g) **Existing Agreements.** All of the Transferor's liabilities and obligations in and to the Excluded Agreements.

2.8 Consents re: Assignment of Contracts

Notwithstanding anything to the contrary contained herein, neither this Agreement nor any other agreement referenced herein shall constitute an assignment of any Contract or right or benefit arising thereunder included in the Assets if such assignment would constitute a breach thereunder. In the event that the Transferor does not obtain any consent or waiver for the transfer of any Assumed Contract to the Transferee (to the extent required by the terms of any such Assumed Contract) prior to Closing, the Transferor shall hold such Assumed Contract in trust for and for the benefit of the Transferee. The Transferor shall continue to use its reasonable best efforts to obtain such consent or waiver and the Transferor shall, after Closing, enforce any and all rights of the Transferor against any other party to such Assumed Contract for the benefit of the Transferee.

ARTICLE III – PAYMENT TO THE TRANSFEROR

3.1 Consideration for the Assets.

On the terms and subject to the conditions of this Agreement, in consideration of the sale, conveyance, transfer, assignment, grant and delivery of the Assets to the Transferee, the Transferee shall pay to the Transferor a sum equal to **two hundred and forty-seven million, nine hundred and thirteen thousand, five hundred and thirty-five dollars (\$247,913,535)** (the "**Transfer Price**"), which Transfer Price is the fair market value of the Assets at the date hereof. The Transfer Price will be increased or decreased by any corresponding adjustment to the Assumed Liabilities. The Transfer Price shall be satisfied by (i) the assumption of the Assumed Liabilities which the Parties believe to be forty million, six hundred and thirteen thousand, five hundred and thirty-five dollars (\$40,613,535); (ii) the issuance to the Transferor of a Promissory Note in the aggregate principal amount of fifty-five million dollars (\$55,000,000) issued by the Transferee in favour of the Transferor; and (iii) an aggregate of three million, forty-six thousand **(3,046,000)** Units, which Units shall be issued as fully paid and non-assessable for the amount of one hundred and fifty-two million, three hundred thousand dollars (\$152,300,000). The consideration received by the Transferor for each of the Assets shall be allocated in such manner as determined by the Transferor, as set out in the elections to be filed under subsection 97(2) of the Tax Act and any analogous provisions of any applicable provincial income tax legislation, except that (unless specified to the contrary), the Units shall be allocated among all of the Transferor's Assets so as to ensure that the consideration received for each of the Transferor's Assets includes at least one Unit (or a fraction thereof) for the purposes of subsection 97(2) of the Tax Act and any analogous provisions of any applicable provincial income tax legislation.

3.2 Allocation of Purchase Price

The Purchase Price shall be allocated in the manner set forth in Schedule 3.2 of the Agreement, which allocation shall be subject to adjustment as provided therein. The Transferor and the Transferee agree (i) to act in accordance with the computations and allocations contained in Schedule 3.2 in all appropriate Governmental Charge returns, declarations, reports, estimates, information, elections and statements (collectively, “**Returns**”) for the tax year in which Closing occurs; and (ii) not to take a position on any Return before any Governmental Authority charged with the collection of any Governmental Charge or in any judicial proceeding that is in any manner inconsistent with the terms of any such allocation without the consent of the other Party. In the event that any Governmental Charge authority disputes the allocation as indicated on Schedule 3.2, the party receiving notice of the dispute shall promptly notify the other Party hereto concerning resolutions of the dispute.

3.3 Further Documents.

The Transferee and the Transferor shall jointly execute and file elections in the prescribed form in accordance with the rules in subsection 97(2) of the Tax Act and analogous provisions of any applicable provincial income tax legislation (including elections that may be required for minimum tax purposes) in respect of the transfer of the Assets. It is the intention of the Parties hereto that the Transferor’s Assets may be transferred on a tax-deferred basis to the Transferee (and that any portion of the Assets that cannot be transferred on a tax-deferred basis may, at the option of the Transferor, be retained by the Transferor in trust and held for the benefit of the Transferee). The Transferor may determine in its sole discretion the elected amounts for the subsection 97(2) elections and any applicable provincial elections. Subject to the foregoing, the Transferor and the Transferee shall execute any such elections that may be required to give effect to the foregoing. Each of the Parties to this Agreement who owns, or will own, Partnership Units, specifically authorizes Vicwest Corporation, as general partner of the Transferee, to file the election on behalf of each partner of the Transferee.

3.4 Canadian Partnership Representations.

Each of the Parties acknowledges that in order for the 97(2) elections referred to in Section 3.3 to be valid, the Transferee must be a “Canadian Partnership” as defined in the Tax Act and, accordingly, every partner of the Transferee must be a resident of Canada or a partnership that is a “Canadian Partnership” for purposes of the Tax Act. Each of the parties that is, or will become, a partner of the Transferee hereby severally represents and warrants to each other, and acknowledges each other partner (or future partner) of the Transferee is relying thereon, that it is a resident of Canada for purposes of the Tax Act and will continue to qualify as such at all times that it is (or are about to become) a partner of the Transferee.

Each of the Parties hereby severally and represents to each other to take any and all steps that may be required to ensure that the 97(2) elections referred to in Section 3.3 are valid and that the Transferee will qualify as a “Canadian Partnership” within the meaning of the Tax Act at all times.

3.5 Transfer Taxes.

The Transferee shall be liable for and pay, within the time period in the applicable legislation, all federal and provincial sales and transfer taxes, sales and use taxes, duties, fees, registration charges or other like charges which are properly payable in connection with the transfer of the Assets contemplated by this Agreement, including without limitation, goods and services tax (“**GST**”) exigible under the *Excise Tax Act* (Canada), retail sales tax under the *Retail Sales Tax Act* (Ontario) and the equivalent legislation in other provinces, harmonized sales tax (“**HST**”), and land transfer tax under the *Land Transfer Tax Act* (Ontario) and the equivalent legislation in other provinces to the extent exigible, but excluding any taxes based upon the income, revenues or capital receipts of the Transferor (the “**Transfer Taxes**”). Notwithstanding the foregoing, the Transferee shall pay directly to the appropriate taxing authority any applicable Transfer Taxes properly payable on the purchase of the Assets within the legislated time periods including, any tax payable under the *Retail Sales Tax Act* (Ontario) or equivalent legislation in other provinces. The Transferor shall collect all applicable Transfer Taxes and remit them accordingly, it being acknowledged that the Transferee will be required to self-assess GST/HST and Quebec sales tax (“**QST**”), if applicable, with respect to any acquisitions of real property and may claim an immediate offsetting credit or refund in respect of the same on its applicable tax returns and that the Transferor is not required or obligated to collect and remit such self-assessed taxes.

Prior to Closing, the Transferor shall have received from the Transferee, unless waived by the Transferor or not required under the applicable retail sales tax legislation, a properly completed purchase exemption certificate(s) and/or any other document, as required by the applicable retail sales tax legislation, which evidences, certifies, and/or establishes, to the satisfaction of the Transferor, that the Transferee, if applicable, is purchasing the Assets for resale purposes pursuant to an exemption under such applicable retail sales tax legislation.

3.6 GST.

The Transferee and the Transferor will jointly execute an election to have the provisions of subsection 167(1) of the *Excise Tax Act* (Canada) and Section 75 of *An Act representing Quebec Sales Tax* apply to the transfer of the Assets such that no GST is payable in respect of such purchase and sale under Part IX of the *Excise Tax Act* (Canada). The Transferee will file the election with its GST return for the period in which Closing occurs. If, notwithstanding the foregoing election, the Transferor is required to collect and remit any amount of GST in respect of the transfer of the Assets, the Transferee shall reimburse The Transferor for such amount remitted at such time as the Transferor is required to remit such taxes. The Transferee shall also reimburse The Transferor for any interest or penalties applicable under the *Excise Tax Act* (Canada) attributable to amounts the Transferor is required to collect and remit in respect of the sale of the Assets.

3.7 Section 22 Election.

If required, the Transferor and the Transferee shall jointly execute an election in prescribed form under Section 22 of the Tax Act in respect of the Accounts Receivable and the corresponding provisions of any other applicable taxing statute or regulation in a manner

consistent with such election and allocation of the Transfer Price and shall each file such election(s) with their respective tax returns for their respective taxation years that include the period in which the sale of the Assets take place.

3.8 Section 20(24) Election.

If required, the Transferor and the Transferee shall jointly execute and file an election pursuant to Section 20(24) of the Tax Act and the corresponding provisions of any other applicable provincial income tax legislation in prescribed manner and within the prescribed time limits in respect of any deferred revenue of the Transferor's Business for an amount of the deferred revenue that is being transferred to the Transferee in consideration for the Transferee undertaking future obligations in connection with the deferred revenue for the amount of the deferred revenue. The Transferor and the Transferee will agree, in such circumstances, that a portion of the Assets shall be transferred to the Transferee in payment for the Transferee's undertaking to assume such obligations.

ARTICLE IV – CLOSING

4.1 Closing.

The closing of the transfer of the Assets hereunder (the "**Closing**") shall take place at the offices of Goodmans LLP, 250 Yonge Street, Suite 2400, Toronto, Ontario, M5B 2M6. The Closing shall be effective on July 1, 2005 in the manner set out in the Plan of Arrangement (the "**Effective Date**").

4.2 Delivery of Items by The Transferor.

The Transferor is delivering to the Transferee the items listed below concurrently with this agreement:

- (a) a Bill of Sale, Assignment and Assumption Agreement (the "**Bill of Sale, Assignment and Assumption Agreement**") for the Assets, duly executed by the Transferor, in the form attached hereto as Exhibit A, beneficial transfer agreements with respect to the Real Property, as well as all deeds, conveyances, transfers, assignments, assurances, consents and any other documents necessary or reasonably required to effectively transfer the Assets to the Transferee, and to provide good and sufficient evidence thereof, with good and marketable title free and clear of all Encumbrances (except for Permitted Encumbrances) and to evidence, certify and/or establish, if applicable, that the Transferee is purchasing the Assets for resale purposes or pursuant to an exemption under applicable retail sales tax legislation; and
- (b) beneficial transfer agreements with respect to the Real Property.

4.3 Delivery of Items by the Transferee.

The Transferee is delivering to the Transferor at Closing the items listed below concurrently with this agreement:

- (a) the Bill of Sale and Assignment and Assumption Agreement, duly executed by the Transferee;
- (b) certificates representing ● Units in the aggregate registered in the name of the Transferor; and
- (c) the Promissory Note.

ARTICLE V – GENERAL REPRESENTATIONS AND WARRANTIES OF THE TRANSFEROR

The Transferor hereby represents and warrants to the Transferee as follows, and acknowledges that the Transferee is relying on the accuracy of such representations and warranties in entering into this Agreement:

5.1 Incorporation and Corporate Power.

- (a) The Transferor is a corporation duly amalgamated, validly existing and in good standing under the laws of the Province of Ontario, and has the corporate power and authority and all authorizations, licenses, permits and certifications necessary to own and lease and operate its properties and to carry on its business as now conducted and to enter into this Agreement and perform its obligations hereunder. the Transferor is qualified to do business as a foreign or extra-provincial corporation in every jurisdiction in which the nature of its business or its ownership or leasing of property requires it to be so qualified except for those jurisdictions in which the failure to be so qualified could not, individually or in the aggregate, have a material adverse effect on the Transferor.
- (b) The Transferor has no Subsidiaries (as defined below) other than the Transferor Subsidiaries. Neither the Transferor nor any Transferor Subsidiary is a 10% or more joint venturer or partner in any project, a 10% or more shareholder in any corporation, a 10% or more member of any limited liability company or otherwise a 10% or more investor in any for-profit entity, with the exception of the Transferor's ownership in each of the Transferor Subsidiaries, and the ownership by 359856 Alberta Ltd., as general partner, in Cancom Equity Fund and CEF Limited Partnership No. 2.

5.2 Execution and Binding Obligation.

This Agreement has been duly executed and delivered by the Transferor and constitutes a legal, valid and binding obligation of the Transferor, enforceable against the Transferor in accordance with its terms, subject only to any limitation relating to (i) bankruptcy, winding-up, insolvency, arrangement and other laws of general application affecting the

enforcement of creditors' rights; and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction.

5.3 No Breach; Consents.

The execution, delivery and performance of this Agreement and consummation of the transactions contemplated hereby will not (a) contravene any provision of the organizational documents or resolutions of directors or shareholders of the Transferor, (b) require any authorization, consent, approval, exemption or other action or notice to any court or other governmental body, under the provisions of the organization documents of the Transferor or any indenture, mortgage, lease, loan agreement or other agreement or instrument by which the Transferor is bound or affected or any law, statute, rule or regulation or order, judgement or decree to which the Transferor is subject, other than those contemplated in connection with the transfer of Assets pursuant to this Agreement (c) result in the creation of any Encumbrance upon any Assets, or (d) result in the breach of any Material Assumed Contract, Law or judgement binding the Transferor, other than circumstances of non-compliance which have been previously disclosed by the Transferor to the Transferee.

5.4 Financial Statements

The Transferor has delivered to the Transferee copies of (a) the unaudited consolidated balance sheet, as of March 31, 2005, of the Transferor (the "**Latest Balance Sheet**") and the unaudited consolidated statements of earnings, shareholders' equity and cash flows of the Transferor for the three-month period ended March 31, 2005 (such statements and the Latest Balance Sheet being herein referred to as the "**Latest Financial Statements**") and (b) the audited consolidated balance sheets, as of December 31, 2004, 2003 and 2002, of the Transferor and the audited consolidated statements of earnings, shareholders' equity and cash flows of the Transferor for each of the fiscal years then ended (collectively, the "**Annual Financial Statements**"). The Latest Financial Statements and the Annual Financial Statements are based upon the information contained in the books and records of the Transferor and fairly present, in all material respects, the assets, liabilities and financial condition of the Transferor as of the dates thereof and results of operations for the periods referred to therein. The Annual Financial Statements have been prepared in accordance with generally accepted accounting principles, consistently applied throughout the periods indicated. The Latest Financial Statements have been prepared in accordance with generally accepted accounting principles applicable to unaudited interim financial statements (and thus may not contain all notes and may not contain prior period comparative data which are required to be prepared in accordance with generally accepted accounting principles) consistently with the Annual Financial Statements and reflect all adjustments necessary to be a fair statement of the results for the interim period(s) presented.

5.5 Accounts Receivable.

The Accounts Receivable are valid receivables, are not subject to valid counterclaims or setoffs, and, to the knowledge of the Transferor, are collectible in accordance with their terms, except to the extent of the bad debt reserve reflected on Latest Balance Sheet.

5.6 No Material Adverse Changes.

Since the date of the Annual Financial Statements, except as publicly disclosed, there has been no material adverse change in the condition, business, operations, prospects, affairs and personnel of the Business and the Business has been conducted in the ordinary course consistent with past practice.

5.7 Absence of Certain Developments.

From December 31, 2004 to the date hereof, the Transferor has not:

- (a) borrowed any amount or incurred or become subject to any liability, except (i) current liabilities incurred in the ordinary course of business, (ii) liabilities under contracts entered into in the ordinary course of business, (iii) intercompany indebtedness among the Transferor or its Subsidiaries; and (iv) liabilities set forth in the Latest Financial Statements;
- (b) mortgaged, pledged or subjected to an Encumbrance, any of its assets except (i) liens for taxes and other governmental charges and assessments not yet due or delinquent or being contested in good faith by appropriate proceedings, (ii) liens imposed by law and incurred in the ordinary course of business for obligations not yet due or delinquent, (iii) liens in respect of pledges or deposits under workers' compensation, social security or similar laws, (iv) easements, restrictions and reservations of record, if any, (v) building and zoning by-laws, laws, ordinances and regulations, (vi) liens securing indebtedness reflected in the Latest Financial Statements, (vii) liens for intercompany indebtedness among the Transferor or the Subsidiaries, if any, and (ix) other liens, encumbrances or imperfections on property which do not materially detract from the value of or materially impair the existing use of the property affected by such lien, encumbrance or imperfections (collectively, "**Permitted Encumbrances**");
- (c) sold, assigned or transferred (including, without limitation, transfers to any employees, affiliates or shareholders) any tangible assets, or cancelled any debts or claims, in each case, except in the ordinary course of business;
- (d) sold, assigned or transferred (including, without limitation, transfers to any employees, affiliates or shareholders) any patents, trademarks, trade names, copyrights, trade secrets or other intangible assets;
- (e) waived any rights of material value or suffered any extraordinary losses;
- (f) taken any other action or entered into any other transaction other than in the ordinary course of business and in accordance with past custom and practice, other than the transactions contemplated by this Agreement;
- (g) suffered any material theft, damage, destruction or loss of or to any property or properties owned or used by it, whether or not covered by insurance;

- (h) made or granted any increase in any employee benefit plan or arrangement, or amended or terminated any existing employee benefit plan or arrangement, or adopted any new employee benefit plan or arrangement or made any commitment or incurred any liability to any labour organization;
- (i) other than as previously disclosed to the Transferee, made any single capital expenditure or commitment therefore in excess of \$50,000; or
- (j) made any change in accounting principles or practices from those utilized in the preparation of the Annual Financial Statements.

5.8 Inventory and Equipment.

The Transferor's inventory of raw materials, work in process and finished goods consists of items of a quality and quantity usable and, with respect to finished goods only, saleable at normal profit levels, subject to customary allowances for spoilage, damage and outdated items, in each case, in the ordinary course of the Transferor's Business. The Transferor owns such inventory free and clear of all Encumbrances, except Permitted Encumbrances.

All of the Equipment have undergone any scheduled maintenance in accordance with manufacturer's recommendations and are in good condition, repair and (where applicable) proper working order, having regard to their age and reasonable wear and tear.

5.9 Title to Properties.

- (a) The real property demised by the Property Leases and the Real Property constitutes all of the real property owned, used or occupied by the Transferor. The Real Property and the Leased Properties have access, sufficient for the conduct of the Business of the Transferor as now conducted or as presently proposed to be conducted, to public roads and to all utilities, including electricity, sanitary and storm sewer, potable water, natural gas and other utilities, used in the operation of the business of the Transferor at that location.
- (b) The Property Leases are in full force and effect, and the Transferor holds a valid and existing leasehold interest under each such Property Lease for the term thereof. The Transferor is not in default, and, to the knowledge of the Transferor, no circumstances exist which, if unremedied, would, either with or without notice or the passage of time or both, result in such default under any of the Leases.
- (c) The Transferor owns good and marketable beneficial title to the Real Property, free and clear of all Encumbrances, except for Permitted Encumbrances.
- (d) To the knowledge of the Transferor, the buildings, equipment and other tangible assets used by the Transferor in the conduct of its business are, in all material respects, in good condition and repair, ordinary wear and tear excepted, and are adequate and suitable for the purposes for which they are currently being used.

- (e) All buildings, structures, improvements and appurtenances situated on the Real Property and the Leased Properties are in good operating condition and in a state of good maintenance and repair, reasonable wear and tear excepted, are adequate and suitable for the purposes for which they are currently being used and the Transferor has adequate rights of ingress and egress for the operation of the businesses of the Transferor in the ordinary course. None of such buildings, structures, improvements or appurtenances (or any equipment therein), nor the operation or maintenance thereof, violates any restrictive covenant or, in any material respect, any provision of any federal, provincial or municipal law, ordinance, rule or regulation, or encroaches on any property owned by others. Without limiting the generality of the foregoing:
- (i) the Real Property and the Leased Properties, the current uses thereof and the conduct of the Business of the Transferor comply in all material respects with all regulations, statutes, enactments, laws and by-laws including, without limitation, those dealing with zoning, parking, access, loading facilities, landscaped areas, building construction, fire and public health and safety and Environmental Laws;
 - (ii) all accounts for work and services performed and materials placed or furnished upon or in respect of the Real Property and the Leased Properties at the request of the Transferor has been fully paid and satisfied, and no person is entitled to claim a lien under the *Construction Lien Act* (Ontario) or similar legislation in other provinces of Canada against the Real Property and the Leased Properties or any part thereof, other than current accounts in respect of which the payment due date has not yet passed;
 - (iii) there is nothing owing in respect of the Real Property and the Leased Properties by the Transferor to any municipal corporation or to any other corporation or commission owning or operating a public utility for water, gas, electrical power or energy, steam or hot water, or for the use thereof, other than current accounts in respect of which the payment due date has not yet passed; and
 - (iv) no part of the Real Property and the Leased Properties has been taken or expropriated by any federal, provincial, municipal or other competent authority nor has any notice or proceeding in respect thereof been given or commenced.
- (f) With the exception of any applicable Permitted Encumbrances, the Transferor has good and marketable title to all of their personal property, including the personal property reflected on the most recent Balance Sheet (except Inventory sold or used after the most recent Balance Sheet Date in the ordinary course of business and obsolete or unusable assets sold since the Balance Sheet Date. Other than as it relates to Permitted Encumbrances, no Person has any agreement, option, understanding, commitment or right or any right or privilege capable of becoming a right to purchase any personal property from the Transferor, other than Inventory in

the ordinary course of business, and none of the personal property that is owned by the Transferor is subject to any Lien.

5.10 Tax Matters.

All federal and provincial sales taxes and other similar taxes applicable to the Business or to the Assets, including, without limitation, GST/HST, QST, retail sales tax, and land transfer taxes (other than on the transfer of the Assets to the Transferee as contemplated herein) with respect to all periods prior to Closing will have been paid and satisfied prior to Closing and the Transferor has complied with all such tax obligations, including collections, remittances and filings in relation thereto.

The Transferor is not a non-resident of Canada for the purposes of the Tax Act. The Assets are all or substantially all of the property used in a commercial activity that forms all or part of a business carried on by the Transferor. The Transferor has not been and is not now a financial institution for purposes of the *Excise Tax Act* (Canada). The Transferor is a registrant for the purposes of the *Excise Tax Act* (Canada).

5.11 Contracts.

The Assumed Contracts, Real Property Leases and other material Contracts to which the Transferor is a party or by which the Transferor or the Assets are bound (the “**Material Assumed Contracts**”) are valid and binding on the Transferor and in full force and effect and none of the rights or interest of the Transferor thereunder have been assigned or encumbered in any way. As of the date hereof, the Transferor is not in breach of, or default under, any of such Material Assumed Contract which has not been cured or waived nor, to the Knowledge of the Transferor, is any other party to any Material Assumed Contract in breach of, or default under, any such Material Assumed Contract which has not been cured.

5.12 Intellectual Property Rights.

The Transferor owns and possesses all right, title and interest, or holds a valid license, in and to the rights of the Intellectual Property (the “**Intellectual Property Rights**”). The Transferor has not received any notice of, any infringement or misappropriation by, or conflict from, any third party with respect to the Intellectual Property Rights; no claim by any third party contesting the validity of the Intellectual Property Rights has been made, is currently outstanding or, to the Knowledge of the Transferor, is threatened; the Transferor has not infringed, misappropriated or violated any Intellectual Property Rights of any third parties, or received any notice of any infringement, misappropriation or violation by it of any Intellectual Property Rights of any third parties.

5.13 Litigation.

Except for the Retained Litigation there is no action, suit, proceeding or investigation, at law or in equity, by any person, nor any arbitration, administrative or other proceeding by or before any governmental entity pending (collectively, “**Proceedings**”) or, to the Knowledge of the Transferor, threatened and no event has occurred which might give rise to any Proceedings against or affecting the Transferor or any of its respective properties, rights or assets

and there is no judgment, decree, injunction, rule, award or order of any court, government, department, board, commission, agency, arbitrator or similar body outstanding against the Transferor or the Business which, in each case, materially adversely affects, or, if determined adversely to the Transferor or the Business, would materially adversely affect the Business or the financial condition or future prospects of the Transferor and the Subsidiaries considered as a whole.

5.14 Employees.

- (a) With respect to the Transferor: (i) there is no collective bargaining agreement or relationship with any labour organization except for the Collective Bargaining Agreements; (ii) to the Knowledge of the Transferor, no executive or manager has any present intention to terminate their employment; (iii) no labour organization or group of employees has filed any representation petition or made any written or oral demand for recognition; (iv) no union organizing or decertification efforts are underway or, to the Knowledge of the Transferor, threatened, other than those unions organized as of the date hereof; (v) no labour strike, work stoppage, slowdown, or other material labour dispute has occurred, and none exists or, to the Knowledge of the Transferor, threatened; (vi) there is no workman's compensation liability, experience or matter that could have a material adverse effect; (vii) there is no employment-related charge, complaint, grievance, investigation or inquiry of any kind, pending or, to the Knowledge of the Transferor, threatened in any court or other tribunal having jurisdiction over the Transferor, relating to an alleged violation or breach by the Transferor (or its officers or directors) of any law, regulation or contract; and, (viii) to the Knowledge of the Transferor, no employee or agent of the Transferor has committed any act or omission giving rise to material liability for any violation or breach identified in subsection (vii) above.
- (b) Except with respect to those Transferred Employees or Excluded Employees (i) there are no employment contracts or severance agreements with any employees of the Transferor, and, (ii) there are no written personnel policies, rules or procedures applicable to employees of the Transferor.
- (c) With respect to the transaction contemplated by this Agreement, each notice required under any law or collective bargaining agreement has been, or will be, given in accordance with the timing requirements applicable to such agreements, and all then existing bargaining obligations with any employee representative have been, or by Closing will be, satisfied. Within the past three years, The Transferor has not implemented any plant closing or layoff of employees and no such action will be implemented prior to Closing without advance notification to The Transferee.

5.15 Assumed Benefit Plans

- (a) All Assumed Benefit Plans remain in force and have not been terminated or partially terminated. The Transferor has furnished to the Transferee true, correct,

complete and up to date copies of the Assumed Benefit Plans, together with all related documentation in the possession or control of the Transferor.

- (b) The Assumed Benefit Plans are registered (where required) under applicable legislation and no events have occurred which would affect the registered status of the Assumed Benefit Plans.
- (c) All Assumed Benefit Plans are in good standing under applicable laws and the Transferor has made all filings required by Governmental Authorities and applicable laws. The Assumed Benefit Plans and all investments held by such plans comply in all respects with all applicable laws and have been maintained, funded, invested and administered in compliance with the terms of the plans and applicable laws.
- (d) All required contributions or premiums to be paid under the Assumed Benefit Plans have been fully paid to the date hereof in a timely fashion in accordance with applicable legislation and the terms of the plans. As of the date of the last actuarial report, no unfunded liability, solvency deficiency (except with respect to the solvency deficiency in connection with Pension Plan "E" for Hourly-Rated Employees of Westeel Limited), unpaid special payment or experience deficiency, whether due or not, exists with respect to the Assumed Benefit Plans and all regular and special payments with respect to the Assumed Benefit Plans are up to date as of the date hereof.
- (e) There have been no withdrawals or transfers of assets from the Assumed Benefit Plans except to a member or beneficiary in accordance with the terms thereof or in accordance with approval granted by a Governmental Authority. No actuarial surplus has ever been removed from any Assumed Benefit Plan.
- (f) There are no outstanding liabilities under the Tax Act or other tax liabilities with respect to the Assumed Benefit Plans.
- (g) There has been no material change in the value of any Assumed Benefit Plan since the last valuation which would affect the actuarial report or financial statements and the actuarial assumptions used have not changed since the last valuation.
- (h) No improvements to the Assumed Benefit Plans have been promised and no improvements will be made or promised prior to Closing except as may be required by any applicable legislation and any such promises of benefit improvements shall be communicated to The Transferee prior to Closing.
- (i) There are no outstanding actions or claims with respect to the Assumed Benefit Plans, other than claims for benefits submitted by members or beneficiaries in the normal course, there are no requests for documents and there is no litigation, legal action, suit, investigation, claim, counterclaim or proceeding pending or threatened against or affecting any Assumed Benefit Plan which could have a material adverse effect on the Transferor or on any Assumed Benefit Plan maintained as of Closing.

- (j) All contributions and premiums required to be paid to all statutory plans which the Transferor is required to comply with, including the Canada or Quebec pension plans and plans administered pursuant to applicable provincial health tax, workers compensation and employment insurance laws, have been paid by the Transferor in accordance with applicable laws.
- (k) Neither the Transferor nor any administrator or fiduciary of the Assumed Benefit Plans (or agent of any of the foregoing) have been in breach of any fiduciary obligation with respect to the administration of the Assumed Benefit Plans. Neither the Transferor, nor any administrator or any fiduciary of the Assumed Benefit Plans has engaged in any transaction or acted or failed to act in a manner which could subject the Transferor to any liability for a breach of fiduciary duty.

5.16 Insurance.

All insurance policies under which the Transferor, its employees or any of the Leased Properties or Assets are insured are in full force and are in amounts, with regard to deductibles and co-insurance clauses, as are adequate to fully insure the Transferor, their assets and the businesses thereof.

5.17 Compliance with Laws; Permits.

- (a) The Transferor is not in violation of or default under any law, regulation or order applicable to it, the effect of which, individually or in the aggregate with such other violations and defaults, could reasonably be expected to have a material adverse effect on the Transferor.
- (b) The Transferor has, in full force and effect, all licenses, permits and certificates, from federal, state, provincial, local and foreign authorities used, necessary in and, individually or in the aggregate, material to the Business (collectively, the “**Permits**”). The Transferor has conducted its business in substantial compliance with all material terms and conditions of the Permits.

5.18 Environmental Matters.

- (a) As used in this Section 5.18, the following terms shall have the following meanings:
 - (i) “**Hazardous Materials**” means any substance, material or waste which is regulated by any Environmental Laws relating to such substance or otherwise relating to the environment or human health or safety, including petroleum, petroleum products, asbestos, asbestos-containing material, urea formaldehyde and polychlorinated biphenyls.
 - (ii) “**Environmental Laws**” means all applicable federal, state, provincial and local statutes (including common law), rules, regulations, codes, ordinances, orders, decrees, directives, policies, guidelines, permits, licenses and judgments, all to the extent having the force of law, relating

to pollution, contamination, Hazardous Materials or protection of the environment in effect as of the date of this Agreement.

- (iii) “**Governmental Authority**” for the purposes of this Section 5.18 only means any federal, state local administrative or regulatory agency, board, committee, commission or entity with jurisdiction to implement Environmental Laws.
- (iv) “**Release**” means the spilling, leaking, pumping, pouring, injecting, emptying, dumping, disposing, discharging, emitting, depositing, ejecting, leaching, escaping or any other release or threatened release, however defined, whether intentional or unintentional, of any Hazardous Material that is in violation of any Environmental Law.
- (b) The Real Property and the Leased Properties are in material compliance with all applicable Environmental Laws. To the Knowledge of the Transferor, the Transferor has been in material compliance with all applicable Environmental Laws during the 10 years prior to Closing, except for any non-compliance that has been resolved and addressed in all material respects as required by applicable Environmental Laws.
- (c) The Transferor has obtained, and maintained in full force and effect, all material environmental permits, licenses, certificates of compliance, approvals and other governmental authorizations under any Environmental Laws required for the lawful conduct of its business and the ownership or operation of the Real Property and the Leased Properties (collectively, the “**Environmental Permits**”) and has conducted its business in compliance in all material respects with all terms and conditions of the Environmental Permits.
- (d) To the Knowledge of the Transferor, other than that which has been previously disclosed to the Transferee, (i) no Release of Hazardous Materials has occurred on, under or at any part of the Real Property or the Leased Properties or any other property or facility owned or operated by the Transferor, which Release has not been resolved and addressed as required in all material respects by any applicable Environmental Law, and (ii) no aboveground or underground storage tanks or impoundments or land-disposal units containing Hazardous Materials the location, design, construction or operation of which is regulated under Environmental Laws, are located on, under or at the Real Property or the Leased Properties, or have been located during the period that such Real Property or the Leased Properties or at the Real Property or the Leased Properties and then subsequently been removed or filled, provided, however, that any representation in this Section 5.18(d) relating to Releases at the Real Property or the Leased Properties or any other property or facility that first occurred prior to the period of ownership by the Transferor shall be limited to the Knowledge of the Transferor.
- (e) Other than that which has been previously disclosed to the Transferee, the Transferor has not received any written notice within the past five years alleging

in any manner that the Transferor is responsible, or potentially responsible for any Release of Hazardous Materials, any penalties arising under any Environmental Laws or any violation of Environmental Laws.

- (f) The Transferor has never had conducted an Environmental Audit. For purposes of this Section 5.18, an “**Environmental Audit**” shall be limited to any evaluation, assessment or study performed at the request of or on behalf of a Governmental Authority. The Transferor is not aware of any Environmental Audit or other material environmental documents that are in their possession other than those described above.

The representations set forth in this Section 5.18 are the exclusive representations relating to environmental matters.

5.19 Brokers

There is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of the Transferor or any Affiliate of the Transferor who might be entitled to any fee or commission from the Transferor or the Transferee in connection with the transactions contemplated by this Agreement.

5.20 Exclusivity of Representations.

The representations and warranties made by the Transferor in Article V of this Agreement are in lieu of and are exclusive of all other representations and warranties, including, without limitation, any implied warranties. The Transferor hereby disclaims any such other or implied representations or warranties, notwithstanding the delivery or disclosure to the Transferee or its officers, directors, employees, agents or representatives of any documentation or other information (including any financial projections or other supplemental data).

ARTICLE VI – REPRESENTATIONS AND WARRANTIES OF THE TRANSFEEE

The Transferee hereby represents and warrants to the Transferor as follows:

6.1 Organization and Good Standing of the Transferee.

The Transferee is a limited partnership duly established, validly existing and in good standing under the laws of the Province of Manitoba.

6.2 Powers; Execution.

The Transferee has all requisite power and authority (i) to conduct its businesses and to own and operate its assets and properties and (ii) to execute, deliver and perform this Agreement and all other Ancillary Agreements to be executed and delivered by the Transferee pursuant to this Agreement. The execution and delivery of this Agreement and the Ancillary Agreements have been duly and validly authorized by all necessary action on the part of the Transferee. This Agreement is, and this Agreement and the Ancillary Agreements will be as of Closing, validly executed and delivered, and the valid and binding obligations of the Transferee,

enforceable against the Transferee in accordance with their respective terms, except to the extent that such enforcement is limited by applicable bankruptcy, insolvency, reorganization or other laws of general application affecting enforcement of creditor's rights or by general principles of equity.

6.3 Breach of Statute or Contract.

Neither the execution and delivery of this Agreement or the Ancillary Agreements by the Transferee nor performance by the Transferee of its obligations under this Agreement or the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby (a) will violate any provision of the partnership agreement of the Transferee, (b) will conflict with or result in a breach of any of the terms, conditions or provisions of any material Contract to which the Transferee is a party or constitute a default thereunder, (c) will violate in any material respect any Law applicable to the Transferee or any of the Transferee's assets or properties or (d) requires in respect of the Transferee any approval from, consent of or notice to any Governmental Authority or third party.

6.4 No Litigation.

To the Knowledge of the Transferee, there is no pending or threatened in writing Litigation that would impair or delay the ability of the Transferee to perform its respective obligations under this Agreement or to consummate the transactions contemplated by this Agreement.

6.5 GST/QST.

The Transferee will be registered under Division V of Part IX of the *Excise Tax Act* (Canada) as at Closing.

The Transferee will be registered under Division I of Chapter VII of *An Act Respecting the Quebec Sales Tax* as at Closing.

6.6 Brokers.

There is no investment banker, broker, finder or other intermediary that has been retained by or is authorized to act on behalf of the Transferee or any Affiliate of the Transferee who might be entitled to any fee or commission from the Transferee or the Transferors in connection with the transactions contemplated by this Agreement.

ARTICLE VII – INDEMNITIES

7.1 Indemnification of the Transferee by the Transferor.

Subject to the provisions of this Article VII, the Transferor shall indemnify and hold harmless the Transferee in respect of any and all claims, costs, expenses, damages, losses and liabilities (collectively, "**Losses**") incurred by the Transferee in connection with each and all of the following:

- (a) any misrepresentation made in Article V of this Agreement;
- (b) upon a taxing authority or other third party seeking recourse from the Transferee in connection with a liability of the Transferor arising from the failure of the Transferor to comply with any Transfer Tax or other tax obligations, including collection, remittance and filing, it being acknowledged that such indemnity shall apply to all such amounts being sought of the Transferee, including any applicable penalties and interest accrued in connection with the Transferor's related non-compliance;
- (c) notwithstanding the waiver of compliance set forth in Section 9.6, any resulting liability and/or obligation placed upon the Transferee as a result of non-compliance with any applicable clearance certificate requirements under the applicable retail sales tax legislation; and
- (d) the breach of any other covenant, agreement or obligation of the Transferors contained in this Agreement or any other document contemplated by this Agreement.

7.2 Indemnification of the Transferor by the Transferee.

Subject to the provisions of this Article VII, the Transferee shall indemnify and hold harmless the Transferor in respect of any and all Losses incurred by the Transferor in connection with each and all of the following:

- (a) any misrepresentation made by the Transferee in Article VI of this Agreement; and
- (b) the breach of any other covenant, agreement or obligation of the Transferee contained in this Agreement or any other document contemplated by this Agreement.

7.3 Survival of Claims.

Any claim for indemnification under Section 7.1 or 7.2 shall survive Closing for a period of three years from the date of Closing. Any claim for indemnification shall survive the applicable termination date if a party, prior to such termination date, shall have advised the party from which indemnification is sought in writing of facts that constitute or may give rise to an alleged claim for indemnification, specifying in reasonable detail the basis under this Agreement for such claim and the amount of such claim.

7.4 Defence by the Indemnifying Party.

As used herein, an “**Indemnified Party**” shall refer to a party making a claim for indemnification under Section 7.1 or 7.2, as applicable and the “**Indemnifying Party**” shall refer to the party hereto obligated to indemnify such Indemnified Party.

In the event that any Indemnified Party is made a defendant in or party to any action or proceeding, judicial or administrative, instituted by any third party for the liability or the costs or expenses of which are Losses (any such third party action or proceeding being referred to as a “**Claim**”), the Indemnified Party shall give the Indemnifying Party prompt notice thereof. The failure to give such notice shall not affect any Indemnified Party’s ability to seek reimbursement unless such failure has materially and adversely affected the Indemnifying Party’s ability to defend successfully a Claim. The Indemnifying Party shall be entitled to contest and defend such Claim; provided, that the Indemnifying Party (i) has a reasonable basis for concluding that such defence may be successful and (ii) diligently contests and defends such Claim. Notice of the intention to so contest and defend shall be given by the Indemnifying Party to the Indemnified Party within 15 business days after the Indemnified Party’s notice of such Claim (but, in all events, at least five business days prior to the date that an answer to such Claim is due to be filed). Reputable attorneys employed by the Indemnifying Party shall conduct such contest and defence. The Indemnified Party shall be entitled at any time, at its own cost and expense (which expense shall not constitute a Loss unless the Indemnified Party reasonably determines that the Indemnifying Party is not adequately representing or, because of a conflict of interest, may not adequately represent, any interests of the Indemnified Party, and only to the extent that such expenses are reasonable), to participate in such contest and defence and to be represented by attorneys of its or their own choosing. If the Indemnified Party elects to participate in such defence, the Indemnified Party will cooperate with the Indemnifying Party in the conduct of such defence. Neither the Indemnified Party nor the Indemnifying Party may concede, settle or compromise any Claim without the consent of the other party.

7.5 Waiver.

The Indemnified Party agrees that it will not waive any statute of limitations or defence that would increase the liability of the Indemnifying Party hereunder without (except in connection with pending litigation in which the Indemnifying Party has not assumed the defence) the consent of the Indemnifying Party.

7.6 General Provisions.

- (a) The Transferor shall not be liable with respect to a Claim for an amount in excess of the Transfer Price received by it.
- (b) The parties hereby agree that the remedies provided in this Article VII constitute the sole and exclusive remedies of the parties with respect to this Agreement and any claims arising hereunder or otherwise relating to the subject matter hereof; provided that the Transferee and the Transferor do not waive any rights it or they may have to specific performance or injunctive relief to the extent available under applicable law.
- (c) No Indemnifying Party shall be liable for punitive, special or consequential damages.
- (d) The amount of any Losses from and against which any party is liable to indemnify, reimburse, defend and hold harmless the other party or any other person pursuant to this Article shall be reduced by any insurance or other

recoveries (and no right of subrogation shall accrue hereunder to any insurer) and any tax benefit that such Indemnified Party realizes or may realize as a result of or in connection with such Losses, and shall be increased by any taxes such Indemnified Party realizes or may realize in respect of indemnification for such Losses.

- (e) No party shall have the right to offset, or to argue for the offset, of any payments, claims or amounts due hereunder or arising as a result of this Agreement against any payments, claims or amounts claimed or due from the other party hereunder or otherwise, nor to offset against any such payments, claims or amounts due hereunder. No party shall withhold payment of any amounts claimed or otherwise due hereunder when and as due even if relating to an item under dispute except for the incremental portion subject to such dispute (for instance, if a payment is due and the Parties are in dispute whether the amount due is \$90 or \$100, the parties agree that, notwithstanding such dispute, \$90 shall be paid as and when otherwise required). The parties shall use commercially reasonable efforts to mitigate Losses otherwise recoverable under this Article VII.
- (f) Any indemnification payment by the Transferor under this Article VII shall be, to the extent permitted by law, an adjustment to the Transfer Price.

ARTICLE VIII – TERMINATION

8.1 Termination.

This Agreement may be terminated by (i) mutual consent of the Parties; or (ii) by notice in writing by any Party to the other Party. Upon giving such consent or requisite notice, the Parties will be released from all obligations hereunder, save and except for the obligations under Article VII, which will survive.

ARTICLE IX – FURTHER COVENANTS

9.1 External Communications.

After Closing, the Transferor shall promptly remit to the Transferee any checks, cash, payments, mail or other communications relating to the Business, the Assets and the Assumed Liabilities that are received by the Transferor after Closing, unless the same relates solely and exclusively to the Excluded Assets or the Retained Liabilities. After Closing, the Transferee shall promptly remit to the Transferor any cheques, cash, payments, mail or other communications relating solely and exclusively to the Excluded Assets and the Retained Liabilities that are received by the Transferee after Closing, unless the same relates to the Assets or the Assumed Liabilities.

9.2 Further Action.

- (a) From and after Closing, each of the Parties shall execute and deliver such documents and other papers and take such further actions as may be reasonably

required to carry out the provisions of this Agreement and the Ancillary Agreements and to give effect to the transactions contemplated hereby and thereby. Without limiting the foregoing, from and after Closing, (i) The Transferor shall do all things necessary, proper or advisable under applicable Laws as reasonably requested by the Transferee to put the Transferee in effective possession, ownership and control of the Assets and any other assets or properties of the Transferor or its Affiliates that relate solely to the operation of the Business that were not transferred to the Transferee hereunder and the Transferee shall cooperate with the Transferor for that purpose, and the Transferor shall provide all reasonable assistance to the Transferee in securing the transfer or reissuance of permits and certificates necessary to conduct the Business or the operations at the Real Property, as the case may be, and (ii) the Transferee shall do all things necessary, proper or advisable under applicable Laws as reasonably requested by the Transferor to put the Transferor (or such other Person as the Transferor shall indicate) in effective possession, ownership and control of the Excluded Assets and the Transferee shall cooperate with the Transferor for that purpose.

- (b) The Transferor shall have the right to retain copies of all books and records of the Business delivered by the Transferor relating to periods ending on or prior to Closing. For a period of ten years from the date hereof, the Transferee shall maintain all books and records of the Business and the Business relating to periods ending on or prior to Closing and shall make them, and any individuals responsible for the preparation and maintenance of such books and records, available to the Transferor as may be requested by the Transferor from time to time, including, without limitation, in connection with any action, case or proceeding by or against the Transferor or any of its Affiliates. If, at any time after Closing, the Transferor requires a copy of any such book or record, it shall have the right to promptly obtain a copy thereof (at the Transferor's cost) from the Transferee.

9.3 Expenses and Finder's Fees.

The Transferor, on the one hand, and the Transferee, on the other hand, shall each bear their own expenses (including without limitation legal fees and expenses, accountants' or financial advisors' fees and expenses and fees due to any broker, investment banker, finder or agent) incurred in connection with the execution and performance of this Agreement. The Transferee shall pay all Transfer Taxes or other fees related to the sale of the Assets hereunder and the fees and costs of recording or filing all applicable conveyancing instruments associated with the transfer of the Assets from the Transferor to the Transferee pursuant to this Agreement. The Transferor and the Transferee shall cooperate in the preparation, execution and filing of all tax returns regarding any Transfer Taxes which become payable as a result of the transfer of the Assets from the Transferor to the Transferee pursuant to this Agreement and/or shall cooperate to seek an available exemption from such taxes. The Transferor and the Transferee agree that they will work together to facilitate and expedite any claims that are to be made by the Transferee in attempt to recover any Transfer Taxes paid.

9.4 Accounts Receivable.

No later than three Business Days following Closing, the Transferor shall provide the Transferee with a true and complete list of the Accounts Receivable and Accounts Payable as of Closing, in each case indicating the name of the payor and the amount outstanding.

9.5 Bulk Sales Laws.

The Transferee hereby waives compliance by the Transferor with the provisions of any bulk sales, bulk transfer or similar laws.

9.6 Retail Sales Tax Act.

Each of the Parties hereby waive compliance by the other with respect to any applicable clearance certificate requirements under applicable retail sales tax legislation.

9.7 Insurance.

The Transferor agrees to continue the appointment of the current insurance company for the management of the insurance policies in accordance with the contracts currently in effect. The Transferor and the Transferee shall arrange with said company for the execution of all documents required by such insurance company to effect such continued appointment.

ARTICLE X – GENERAL

10.1 Waiver.

Any failure of the Transferee to comply with any of its obligations or agreements or to fulfill any conditions herein contained may be waived only by a written waiver from the Transferor. Any failure of the Transferor to comply with any of its obligations or agreements or to fulfill any conditions herein contained may be waived only by a written waiver from the Transferee. Except as otherwise specified herein, no failure by either the Transferor or the Transferee to exercise any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right hereunder by such Party preclude any other or future exercise of that right or any other right hereunder by that Party.

10.2 Notices.

All notices, requests or other communications required or permitted hereunder shall be given in writing by hand delivery, overnight courier or registered mail or certified mail, return receipt requested, postage prepaid, or by facsimile to the Party to receive the same at its respective address set forth below, or at such other address as may from time to time be designated by such Party to the other in accordance with this Section 10.2:

- (a) If to the Transferor, to: Vicwest Corporation
1296 South Service Road
Oakville, ON L6L 5T7
Attn: Jack Wilson
Facsimile: (905) 825-2861
- with a copy to: Goodmans LLP
Suite 2400
250 Yonge Street
Toronto, Ontario M5B 2M6
Attn: Neill May
Facsimile: (416) 979-1234
- (b) If to the Transferee, to: Vicwest Operating Limited Partnership
1296 South Service Road
Oakville, ON L6L 5T7
Attn: Jack Wilson
Facsimile: (905) 825-2861
- with a copy to: Goodmans LLP
250 Yonge Street, Suite 2400
Toronto, Ontario M5B 2M6
Attn: Neill May
Facsimile: (416) 979-1234

A notice shall be deemed to have been sent and received on the day it is sent or on the day on which transmission is confirmed if sent by facsimile.

10.3 No Third Party Beneficiaries.

Nothing in this Agreement, express or implied, is intended to confer upon any other Person any rights or remedies under or by reason of this Agreement, other than Persons expressly entitled to indemnification under Article VII hereof.

10.4 Headings.

Captions and paragraph headings used herein are for convenience only, are not a part of this Agreement and shall not be used in construing it.

10.5 Entire Agreement.

This Agreement, other agreements and documents referred to herein, constitutes the entire understanding and agreement of the Parties and there are no other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof, except as specifically referenced herein. This Agreement supersedes and terminates all prior discussions, negotiations, understandings, arrangements and agreements between the parties relating to the subject matter hereof.

10.6 Amendment.

This Amendment may be amended or modified only by written agreement of the Parties.

10.7 Severability.

In case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision or provisions shall be ineffective only to the extent of such invalidity, illegality or unenforceability, without invalidating the remainder of such provision or provisions or the remaining provisions of this Agreement.

10.8 Assignability.

Neither the Transferor nor the Transferee hereto may assign this Agreement without the prior written consent of the other Party, which consent is not to be unreasonably withheld or delayed.

10.9 Successors and Assigns.

This Agreement and the provisions thereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

10.10 Governing Law.

This Agreement shall be governed and determined in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein without giving effect to principles of conflicts of law thereunder. Each Party hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Ontario.

10.11 Enurement.

This Agreement shall enure to the benefit of and be binding upon the Parties hereto and their respective successors, administrators, representatives and permitted assigns.

10.12 Time of Essence.

Time is of the essence of this Agreement.

10.13 Counterparts.

This Agreement may be executed in any number of duplicate counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have duly signed this Agreement as of the date first written above.

VICWEST CORPORATION

By: “Jack Wilson”
Name: Jack Wilson
Title: Vice-President, Finance & CFO

**VICWEST OPERATING LIMITED
PARTNERSHIP by its general partner
VICWEST CORPORATION**

By: “Jack Wilson”
Name: Jack Wilson
Title: Vice-President, Finance & CFO

LIST OF EXHIBITS

Exhibit A Bill of Sale, Assignment and Assumption Agreement

BILL OF SALE, ASSIGNMENT AND ASSUMPTION AGREEMENT

This Bill of Sale, Assignment and Assumption Agreement (the “**Agreement**”), dated as of July 1, 2005 by and between Vicwest Corporation, a corporation amalgamated under the laws of the Province of Ontario (the “**Transferor**”), and Vicwest Operating Limited Partnership, a limited partnership established under the laws of the Province of Manitoba (the “**Transferee**”).

WHEREAS the Transferor and the Transferee are parties to the Asset Transfer Agreement, dated as of July 1, 2005 (the “**Asset Transfer Agreement**”), providing for, among other things, the transfer by the Transferor to the Transferee of the Assets, for consideration in the amount and on the terms and conditions set forth in the Asset Transfer Agreement, including the assumption of the Assumed Liabilities by the Transferor, in accordance with the terms of the Asset Transfer Agreement and the Plan of Arrangement;

AND WHEREAS the Transferor and the Transferee desire to execute and deliver this Agreement in order to evidence the vesting in the Transferee of the Assets and the assumption by the Transferee of the Assumed Liabilities;

AND WHEREAS capitalized terms used herein and not defined herein shall have the meanings ascribed to them in the Asset Transfer Agreement.

NOW THEREFORE, the parties agree as follows:

1. Conveyance of Assets. In consideration of the Transfer Price and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Transferor has, effective from and after the Closing, conveyed, granted, sold, transferred, set over, assigned, delivered and confirmed, and by this Agreement does, effective as of the Closing, convey, grant, sell, transfer, set over, assign, deliver and confirm unto the Transferee, its successors and assigns, all of its right, title and interest in, to and under the Assets, except for the Excluded Assets, free and clear of all Encumbrances except Permitted Encumbrances.
2. Assumption of Liabilities. In partial consideration of the conveyance of the Assets, the Transferee does hereby, effective from and after the Closing, assume and agree to pay, discharge and perform all liabilities and obligations (whether absolute, accrued, contingent or otherwise, and whether due or to become due) constituting the Assumed Liabilities, including all obligations relating to employees and employee related benefits, other than the Retained Liabilities.
3. No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give to any Person other than the Transferor, the Transferee and their respective successors and assigns, any remedy or claim under or by reason of this Agreement.
4. Further Assurances. The Transferor covenants and agrees that, at any time and from time to time forthwith upon the request of the Transferee, the Transferor will promptly execute and deliver, or cause to be executed and delivered, to the Transferee all such further instruments and take all such further action as may be reasonably necessary or appropriate

to more effectively transfer to the Transferee, or to perfect or record the Transferee's right to, title to or interest in, or to enable the Transferee to use, the Assets assigned or to be assigned to the Transferee.

5. Consents. In the event that the Transferor does not obtain any consent or waiver for the transfer of any Assumed Contract to the Transferee (to the extent required by the terms of any such Assumed Contract) prior to Closing, the Transferor shall hold such Assumed Contract in trust for and for the benefit of the Transferee. The Transferor shall continue to use its reasonable best efforts to obtain such consent or waiver and the Transferor shall, after Closing, enforce any and all rights of the Transferor against any other party to such Assumed Contract for the benefit of the Transferee.
6. Accounts Receivable. The Transferor hereby agrees to make available to the Transferee all books and accounts, letters, invoices, paper and documents in any way evidencing or relating to all or any of the Accounts Receivable, and agrees to furnish to the Transferee all information that the Transferee may reasonably request which may assist in the collection of the Accounts Receivable. If any of the Accounts Receivable are paid to the Transferor after the date hereof, the Transferor agrees to receive the same in trust for the Transferee and to forthwith pay over the same to the Transferee.
7. Binding Agreement. This Agreement is executed by, and shall be binding upon, the Transferor for the uses and purposes above set forth and referred to, as of Closing.
8. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same original.
9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein without regard to any applicable principles of conflicts of law.
10. Successors and Assigns. This Agreement and the provisions thereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.
11. Amendments. No amendment or modification of this Agreement shall be effective unless it is set forth in writing and signed by each of the parties hereto.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Transferor and the Transferee have executed and delivered this Agreement as of the date first written above.

VICWEST CORPORATION

By: _____

Name: Jack Wilson

Title: Vice-President, Finance & CFO

**VICWEST OPERATING LIMITED
PARTNERSHIP**, by its general partner,
VICWEST CORPORATION

By: _____

Name: Jack Wilson

Title: Vice-President, Finance & CFO

Schedule 3.2

Allocation of Purchase Price

To be completed

