

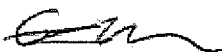
TAB E

THIS IS EXHIBIT "E" REFERRED TO IN THE

AFFIDAVIT OF GREG NORDAL

SWORN BEFORE ME

ON THIS 11TH DAY OF MAY, 2015

A handwritten signature in black ink, appearing to be "G. N.", is written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS

EXECUTION COPY

SECOND LIEN CREDIT AGREEMENT

Dated as of July 5, 2007

among

NELSON EDUCATION LTD.,
as Borrower,

NELSON EDUCATION HOLDINGS LTD.,
as Holdings,

ROYAL BANK OF CANADA,
as Administrative Agent and Collateral Agent,

and

THE OTHER LENDERS PARTY HERETO

RBC CAPITAL MARKETS,
as Lead Arranger and Bookrunner

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SECOND LIEN CREDIT AGREEMENT

This SECOND LIEN CREDIT AGREEMENT ("**Agreement**") is entered into as of July 5, 2007, among NELSON EDUCATION LTD., a corporation incorporated under the laws of Canada (the "**Borrower**"), NELSON EDUCATION HOLDINGS LTD., a corporation incorporated under the laws of Canada ("**Holdings**"), ROYAL BANK OF CANADA, as Administrative Agent and Collateral Agent, and each lender from time to time party hereto (collectively, the "**Lenders**" and individually, a "**Lender**").

PRELIMINARY STATEMENTS

Pursuant to the Purchase Agreement (as this and other capitalized terms used in these preliminary statements are defined in Section 1.01 below), the Borrower (as assignee of Apax/TN Holdings LLC) will acquire (the "**Acquisition**") all of the capital stock of the Transferred Company (with the Transferred Company becoming a direct wholly owned subsidiary of the Borrower) and all of the Purchased Assets.

The Borrower has requested that simultaneously with the consummation of the Acquisition, the Lenders extend credit to the Borrower in the form of Loans in an initial aggregate principal amount equal to \$171,291,053.23.

The proceeds of the Loans, together with the proceeds of (i) the First Lien Loans and other credit extensions under the First Lien Credit Agreement and (ii) the Equity Contribution, will be used to finance the Acquisition and the Transaction Expenses and to refinance certain existing indebtedness of the Transferred Company.

The applicable Lenders have indicated their willingness to lend on the terms and subject to the conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I **DEFINITIONS AND ACCOUNTING TERMS**

Section 1.01 Defined Terms.

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

"**Acquired EBITDA**" means, with respect to any Acquired Entity or Business or any Converted Restricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Acquired Entity or Business or Converted Restricted Subsidiary, as applicable, all as determined on a consolidated basis for such Acquired Entity or Business or Converted Restricted Subsidiary, as applicable.

"**Acquired Entity or Business**" has the meaning specified in the definition of the term "**Consolidated EBITDA**".

"**Acquisition**" has the meaning specified in the preliminary statements to this Agreement.

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"Additional Incremental Term Loans" has the meaning specified in Section 2.15(a).

"Additional Lender" has the meaning specified in Section 2.15(a).

"Adjusted Consolidated Senior Secured Debt" means, as of any date of determination, an aggregate amount equal to the sum of (i) the principal amount of the outstanding First Lien Loans and (ii) the principal amount of the Consolidated Senior Secured Debt outstanding incurred pursuant to Section 7.03(v) that is secured by a Lien pursuant to Section 7.01(ee).

"Adjusted Senior Secured Leverage Ratio" means, with respect to any Test Period, the ratio of (a) Adjusted Consolidated Senior Secured Debt as of the last day of such Test Period to (b) Consolidated EBITDA of the Borrower for such Test Period.

"Administrative Agent" means RBC, in its capacity as administrative agent under the Loan Documents, or any successor administrative agent.

"Administrative Agent's Office" means the Administrative Agent's address and, as appropriate, account as set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify the Borrower and the Lenders.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

"Affiliate" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified. **"Control"** means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. **"Controlling"** and **"Controlled"** have meanings correlative thereto.

"Agent-Related Persons" means the Agents, together with their respective Affiliates, and the officers, directors, employees, agents and attorneys-in-fact of such Persons and Affiliates.

"Agents" means, collectively, the Administrative Agent, the Collateral Agent and the Supplemental Administrative Agents (if any).

"Aggregate Commitments" means the Commitments of all the Lenders.

"Agreement" means this Second Lien Credit Agreement.

"Agreement Currency" has the meaning specified in Section 10.17.

"Applicable Lending Office" means for any Lender, such Lender's office, branch or affiliate designated for Eurocurrency Rate Loans or Base Rate Loans, as applicable, as notified to the Administrative Agent and the Borrower or as otherwise specified in the Assignment and Assumption pursuant to which such Lender became a party hereto, any of which offices may, subject to Section 3.01, be changed by such Lender upon 10 days' prior written notice to the Administrative Agent and the Borrower.

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"Applicable Rate" means a percentage per annum equal to, (i) for Eurocurrency Rate Loans, 6.00% and (ii) for Base Rate Loans, 5.00%.

"Approved Fund" means, with respect to any Lender, any Fund that is administered, advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages such Lender.

"Arranger" means RBC, in its capacity as Lead Arranger under this Agreement.

"Asset Percentage" has the meaning specified in Section 2.06(b)(ii)(A).

"Assignees" has the meaning specified in Section 10.07(b).

"Assignment and Assumption" means an Assignment and Assumption substantially in the form of Exhibit D.

"Attorney Costs" means and includes all reasonable fees, expenses and disbursements of any law firm or other external legal counsel.

"Attributable Indebtedness" means, on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP.

"Audited Financial Statements" means the audited balance sheets of the Business for each of the fiscal years ended December 31, 2006, 2005 and 2004, and the related audited statements of income and cash flows of the Business for the fiscal years ended December 31, 2006, 2005 and 2004, respectively.

"Available Amount" means, at any time (the **"Reference Date"**), an amount equal to the sum of (a) the greater of (i)(y) at all times when the Adjusted Senior Secured Leverage Ratio is greater than 4.00:1.00, 50% of Cumulative Excess Cash Flow that is Not Otherwise Applied, and (z) at all other times, 100% of Cumulative Excess Cash Flow that is Not Otherwise Applied, and (ii) the Available Amount Percentage of Consolidated Net Income for the Available Amount Reference Period (or in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit); plus (b) to the extent not utilized in connection with other transactions permitted pursuant to Section 7.09, the aggregate amount of Retained Declined Proceeds retained by the Borrower during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date; plus (c) the aggregate amount of net cash proceeds of Scheduled Dispositions received by the Borrower or any Restricted Subsidiary during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date; plus (d) the amount of any capital contributions or Net Cash Proceeds from Permitted Equity Issuances (or issuance of debt securities that have been converted into or exchanged for Qualified Equity Interests) (other than the Equity Contribution or any other capital contributions or equity or debt issuances to the extent utilized in connection with other transactions permitted pursuant to Sections 7.02, 7.06 or 7.09) received or made by the Borrower (or any direct or indirect parent thereof and contributed by such parent to the Borrower) during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date; plus (e) to the extent not (i) already included in the calculation of Consolidated Net Income of the Borrower

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and its Restricted Subsidiaries or (ii) already reflected as a return of capital or deemed reduction in the amount of such Investment pursuant to clause (h) below, the aggregate amount of all cash dividends and other cash distributions received by the Borrower or any Restricted Subsidiary from any Minority Investments or Unrestricted Subsidiaries during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date; plus (f) to the extent not (i) already included in the calculation of Consolidated Net Income of the Borrower and its Restricted Subsidiaries or (ii) already reflected as a return of capital or deemed reduction in the amount of such Investment pursuant to clause (h) below, the aggregate amount of all cash repayments of principal received by the Borrower or any Restricted Subsidiary from any Minority Investments or Unrestricted Subsidiaries during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date in respect of loans or advances made by the Borrower or any Restricted Subsidiary to such Minority Investments or Unrestricted Subsidiaries; plus (g) to the extent not (i) already included in the calculation of Consolidated Net Income of the Borrower and its Restricted Subsidiaries, (ii) already reflected as a return of capital or deemed reduction in the amount of such Investment pursuant to clause (h) below, or (iii) used to prepay Loans in accordance with Section 2.06(b)(ii), the aggregate amount of all Net Cash Proceeds received by the Borrower or any Restricted Subsidiary in connection with the sale, transfer or other disposition of its ownership interest in any Minority Investment or Unrestricted Subsidiary during the period from and including the Business Day immediately following the Closing Date through and including the Reference Date; minus (h) the aggregate amount of any Investments made pursuant to Section 7.02(o)(ii) (net of any return of capital in respect of such Investment or deemed reduction in the amount of such Investment including, without limitation, upon the redesignation of any Unrestricted Subsidiary as a Restricted Subsidiary or the Disposition of any such Investment) or any Restricted Payment made pursuant to Section 7.06(n)(iii) (and, for purposes of this clause (h), without taking account of the intended usage of the Available Amount on such Reference Date).

"Available Amount Percentage" means (i) at any time that the condition set forth in clause (ii) is not satisfied, 50%, and (ii) at any time that the Senior Secured Leverage Ratio as of the most recent Test Period (calculated on a Pro Forma Basis) is less than 4.00:1.00, 75%.

"Available Amount Reference Period" means, with respect to any Reference Date, the period commencing at the beginning of the fiscal quarter in which the Closing Date occurs and ending on the last day of the most recent fiscal quarter or fiscal year, as applicable, for which financial statements required to be delivered pursuant to Section 6.01(a) or (b), and the related Compliance Certificate required to be delivered pursuant to Section 6.02(a), have been received by the Administrative Agent.

"Base Rate" means for any day a fluctuating rate per annum equal to the higher of (a) the Federal Funds Rate plus 1/2 of 1% and (b) the U.S. Base Rate. Any change in the Base Rate due to a change in the U.S. Base Rate or the Federal Funds Rate shall be effective on the effective date of such change in the U.S. Base Rate or the Federal Funds Rate, respectively *provided, however*, that during the period from the date hereof to the date that is thirty (30) days following the Closing Date (or such earlier date as shall be specified by the Administrative Agent on which a Eurocurrency Rate Loan has become available), "Base Rate" shall mean the sum of a rate per annum (rounded upwards, if necessary, to the nearest 1/100 of 1%) appearing on Reuters Screen LIBOR01 Page as the London interbank offered rate for deposits in Dollars with a one month

term, determined at approximately 11:00 A.M. (London time) on the Closing Date (provided, however, if more than one rate is specified on Reuters Screen LIBOR01 Page, the applicable rate shall be the arithmetic mean of all such rates), plus 1%.

"Base Rate Loan" means a Loan that bears interest at a rate based on the Base Rate.

"BIA" means the *Bankruptcy and Insolvency Act* (Canada) as now and hereafter in effect, or any successor statute.

"Borrower" has the meaning specified in the introductory paragraph to this Agreement.

"Borrowing" means a borrowing consisting of Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made by each of the Lenders pursuant to Section 2.01.

"Business" shall have the meaning assigned to such term in the Purchase Agreement.

"Business Day" means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the province or state where the Administrative Agent's Office is located, Toronto or New York City; *provided that* if such day relates to any interest rate settings as to a Eurocurrency Rate Loan, any fundings, disbursements, settlements and payments in respect of any such Eurocurrency Rate Loan, or any other dealings in Dollars to be carried out pursuant to this Agreement in respect of any such Eurocurrency Rate Loan, Business Day also means any such day on which dealings in deposits in Dollars are conducted by and between banks in the London interbank eurodollar market.

"Canadian Benefit Plans" shall mean all material employee benefit plans, programs, policies, practices or other arrangements of any nature or kind whatsoever that are not Canadian Pension Plans and are maintained or contributed to by any Loan Party or any Restricted Subsidiary, or under which any Loan Party or any Restricted Subsidiary has any liability or contingent liability, in relation to employees or former employees that it may have in Canada.

"Canadian Pension Plans" shall mean each plan which is a "registered pension plan" as defined in the *Tax Act* or which are required to be registered under federal or provincial pension benefits standards legislation, established, maintained or contributed to by any Loan Party or any Restricted Subsidiary, or under which any Loan Party or any Restricted Subsidiary has any liability or contingent liability, in relation to any employees or former employees that it may have in Canada.

"Canadian Dollar" and **"C\$"** each mean the lawful currency of Canada.

"Capital Expenditures" means, for any period, the aggregate of, without duplication, (a) all expenditures (whether paid in cash or accrued as liabilities) by the Borrower and its Restricted Subsidiaries during such period that, in conformity with GAAP, are or are required to be included as additions during such period to property, plant or equipment reflected in the consolidated balance sheet of the Borrower and its Restricted Subsidiaries, (b) all Capitalized Software Expenditures for such period, (c) the value of all assets under Capitalized Leases incurred by the Borrower and its Restricted Subsidiaries during such period (other than as a result of purchase accounting) and (d) less any capital grants received from a Governmental

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Authority that are reflected as a reduction of fixed assets in conformity with GAAP; *provided* that the term "Capital Expenditures" shall not include, without duplication, (i) expenditures made in connection with the replacement, substitution, restoration or repair of assets to the extent financed with (x) insurance proceeds paid on account of the loss of or damage to the assets being replaced, restored or repaired or (y) awards of compensation arising from the taking by eminent domain or condemnation of the assets being replaced, (ii) the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment to the extent that the gross amount of such purchase price is reduced by the credit granted by the seller of such equipment for the equipment being traded in at such time, (iii) the purchase of plant, property or equipment to the extent financed with the proceeds of Dispositions that are not required to be applied to prepay Loans pursuant to Section 2.06(b), (iv) expenditures that constitute any part of Consolidated Lease Expense, (v) expenditures that are accounted for as capital expenditures by the Borrower or any Restricted Subsidiary and that actually are paid for by a Person other than the Borrower or any Restricted Subsidiary and for which none of the Borrower or any Restricted Subsidiary has provided or is required to provide or incur, directly or indirectly, any consideration or obligation to such Person or any other Person (whether before, during or after such period), (vi) the book value of any asset owned by the Borrower or any Restricted Subsidiary prior to or during such period to the extent that such book value is included as a capital expenditure during such period as a result of such Person reusing or beginning to reuse such asset during such period without a corresponding expenditure actually having been made in such period; *provided* that (x) any expenditure necessary in order to permit such asset to be reused shall be included as a Capital Expenditure during the period in which such expenditure actually is made and (y) such book value shall have been included in Capital Expenditures when such asset was originally acquired, (vii) expenditures that constitute Permitted Acquisitions, (viii) any capitalized interest expense reflected as additions to property, plant or equipment in the consolidated balance sheet of the Borrower and its Restricted Subsidiaries or (ix) any non-cash compensation or other non-cash costs reflected as additions to property, plant or equipment in the consolidated balance sheet of the Borrower and its Restricted Subsidiaries.

"Capitalized Lease Obligation" means, at the time any determination thereof is to be made, the amount of the liability in respect of a Capitalized Lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) prepared in accordance with GAAP.

"Capitalized Leases" means all leases that are required to be, in accordance with GAAP, recorded as capitalized leases; *provided* that for all purposes hereunder the amount of obligations under any Capitalized Lease shall be the amount thereof accounted for as a liability in accordance with GAAP.

"Capitalized Software Expenditures" means, for any period, the aggregate of all expenditures (whether paid in cash or accrued as liabilities) by the Borrower and its Restricted Subsidiaries during such period in respect of licensed or purchased software or internally developed software and software enhancements that, in conformity with GAAP, are or are required to be reflected as capitalized costs on the consolidated balance sheet of the Borrower and its Restricted Subsidiaries.

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"Cash Equivalents" means any of the following types of Investments, to the extent owned by the Borrower or any Restricted Subsidiary:

- (1) Dollars or Canadian Dollars;
- (2) (a) Sterling, Euros or any national currency of any participating member state of the EMU or (b) in the case of any Foreign Subsidiary that is a Restricted Subsidiary, such local currencies held by it from time to time in the ordinary course of business;
- (3) securities issued or directly and fully and unconditionally guaranteed or insured by the United States or Canadian governments or the government of any province of Canada or any agency or instrumentality of any of the foregoing the securities of which are unconditionally guaranteed as a full faith and credit obligation of such government with maturities of 24 months or less from the date of acquisition;
- (4) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, banker's acceptances with maturities not exceeding one year and overnight bank deposits, in each case with any domestic or foreign commercial bank having capital and surplus of not less than \$500,000,000 in the case of U.S. banks and \$100,000,000 (or the Dollar equivalent as of the date of determination) in the case of non-U.S. banks;
- (5) repurchase obligations for underlying securities of the types described in clauses (3), (4) and (8) entered into with any financial institution meeting the qualifications specified in clause (4) above;
- (6) commercial paper rated at least P-1 by Moody's or at least A-1 by S&P, or the equivalent thereof from Dominion Bond Rating Service Inc. and in each case maturing within 24 months after the date of creation thereof and Indebtedness or preferred stock issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's, or the equivalent thereof from Dominion Bond Rating Service Inc., with maturities of 24 months or less from the date of acquisition;
- (7) marketable short-term money market and similar securities having a rating of at least P-2 or A-2 from either Moody's or S&P, respectively (or, if at any time neither Moody's nor S&P shall be rating such obligations, an equivalent rating from another nationally recognized statistical rating agency selected by the Borrower), or the equivalent thereof from Dominion Bond Rating Service Inc. and in each case maturing within 24 months after the date of creation or acquisition thereof;
- (8) readily marketable direct obligations issued by any state, commonwealth or territory of the United States, any province of Canada or any political subdivision or taxing authority thereof having an Investment Grade Rating from Moody's, S&P, Dominion Bond Rating Service Inc. with maturities of 24 months or less from the date of acquisition;

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- (9) readily marketable direct obligations issued by any foreign government or any political subdivision or public instrumentality thereof, in each case having an Investment Grade Rating from Moody's, S&P, Dominion Bond Rating Service Inc. with maturities of 24 months or less from the date of acquisition;
- (10) Investments with average maturities of 12 months or less from the date of acquisition in money market funds rated within the top three ratings category by S&P, Moody's, Dominion Bond Rating Service Inc.; and
- (11) investment funds investing 90% of their assets in securities of the types described in clauses (1) through (10) above.

In the case of Investments by any Foreign Subsidiary that is a Restricted Subsidiary or Investments made in a country outside the United States of America or Canada, Cash Equivalents shall also include (i) investments of the type and maturity described in clauses (1) through (8) and clauses (10) and (11) above of foreign obligors, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalent ratings from comparable foreign rating agencies and (ii) other short-term investments utilized by Foreign Subsidiaries that are Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (1) through (11) and in this paragraph.

Notwithstanding the foregoing, Cash Equivalents shall include amounts denominated in currencies other than those set forth in clauses (1) and (2) above, *provided* that such amounts are converted into any currency listed in clauses (1) and (2) as promptly as practicable and in any event within ten Business Days following the receipt of such amounts. At any time at which the value, calculated in accordance with GAAP, of all investments of the Borrower and its Restricted Subsidiaries that were deemed, when made, to be Cash Equivalents in accordance with clauses (1) through (11) above exceeds the Indebtedness of the Borrower and its Restricted Subsidiaries, "Cash Equivalents" shall also mean any investment (a "Qualifying Investment") that satisfies the following two conditions: (a) the Qualifying Investment is of a type described in clauses (1) through (10) and the immediately preceding paragraph of this definition, but has an effective maturity (whether by reason of final maturity, a put option or, in the case of an asset-backed security, an average life) of five years and one month or less from the date of such Qualifying Investment (notwithstanding any provision contained in such clauses (1) through (10) or the immediately preceding paragraph requiring a shorter maturity); and (b) the weighted average effective maturity of such Qualifying Investment and all other investments that were made as Qualifying Investments in accordance with this paragraph, does not exceed two years from the date of such Qualifying Investment.

"Cash Management Obligations" means obligations owed by the Borrower or any Restricted Subsidiary to any "Lender" (as defined in the First Lien Credit Agreement) or any Affiliate of such a "Lender" in respect of any overdraft and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfers of funds.

"Casualty Event" means any event that gives rise to the receipt by the Borrower or any Restricted Subsidiary of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or real property (including any improvements thereon) to replace or repair such equipment, fixed assets or real property.

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"CCAA" means the *Companies' Creditors Arrangement Act*, as now and hereafter in effect, or any successor statute.

"Change in Law" shall mean (a) the adoption of any law, treaty, order, policy, rule or regulation after the date of this Agreement, (b) any change in any law, treaty, order, policy, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by the Lender with any guideline, request or directive issued or made after the date hereof by any central bank or other governmental or quasi-governmental authority (whether or not having the force of law).

"Change of Control" means the earliest to occur of

- (a) the Permitted Holders ceasing to have the power, directly or indirectly, to vote or direct the voting of securities having a majority of the ordinary voting power for the election of directors of Holdings; *provided* that the occurrence of the foregoing event shall not be deemed a Change of Control if,
 - (i) any time prior to the consummation of a Qualifying IPO, and for any reason whatsoever, (A) the Permitted Holders otherwise have the right, directly or indirectly, to designate (and do so designate) a majority of the board of directors of Holdings at such time or (B) the Permitted Holders own a majority of the outstanding voting Equity Interests of Holdings at such time, or
 - (ii) at any time upon or after the consummation of a Qualifying IPO, and for any reason whatsoever, (A) no "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the *Exchange Act*), excluding the Permitted Holders, shall become the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5 under such Act), directly or indirectly, of more than the greater of (x) thirty-five percent (35%) of the then outstanding voting stock of Holdings, and (y) the percentage of the then outstanding voting stock of Holdings owned, directly or indirectly, beneficially by the Permitted Holders, and (B) during each period of twelve (12) consecutive months, the board of directors of Holdings shall consist of a majority of the Continuing Directors; or
- (b) at any time prior to a Qualifying IPO of the Borrower, the Borrower ceasing to be a direct wholly owned Subsidiary of (i) Holdings or (ii) if any Intermediate Holding Company is formed, the Intermediate Holding Company that is a direct parent of the Borrower.

"Closing" shall have the meaning set forth in the Purchase Agreement.

"Closing Date" means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.

"Closing Date Material Adverse Effect" means any event, circumstance, change in or effect on the Business that, individually or in the aggregate, is or would reasonably be expected to be materially adverse to the results of operations or the financial condition of the Business, taken as a whole, or that prevents or materially delays or impairs the ability of the Seller to carry out its obligations under, and to consummate the transactions contemplated by, the Purchase Agreement; *provided, however*, that none of the following, either alone or in combination, shall be considered in determining whether there has been a "Closing Date Material Adverse Effect": (a) events, circumstances, changes or effects that generally affect the industries in which the Seller conducts the Business (including legal and regulatory changes), (b) general economic or political conditions or events, circumstances, changes or effects affecting the securities markets generally, (c) changes arising from the consummation of the transactions (other than the Closing itself) contemplated by, or the announcement of the execution of, or any action taken pursuant to or in furtherance of, the Purchase Agreement, including (i) any actions of competitors, (ii) any actions taken by or losses of employees, customers or distributors, (iii) any delays or cancellations of orders for products or services, or (iv) any actions taken in connection with obtaining regulatory consents or approvals, (d) any reduction in the price of services or products offered by the Business in response to the reduction in the price of comparable services and products offered by competitors, (e) any event, circumstance, change or effect that results from any action taken pursuant to or in accordance with the Purchase Agreement or at the request of Purchaser (other than the Closing itself) and (f) any event, circumstance, change or effect caused by acts of terrorism or war (whether or not declared) occurring after the date of the Purchase Agreement, except, in the case of the foregoing clauses (a), (b), (d) or (f) only, to the extent such changes do not disproportionately impact the Business relative to other companies in the industries in which the Business operates.

"Code" means the U.S. Internal Revenue Code of 1986, as amended from time to time, and rules and regulations related thereto.

"Collateral" means all the "Collateral" as defined in any Collateral Document and shall include the Mortgaged Properties.

"Collateral Agent" means RBC, in its capacity as collateral agent under any of the Loan Documents, or any successor collateral agent.

"Collateral and Guarantee Requirement" means, at any time, the requirement that:

- (a) the Collateral Agent shall have received each Collateral Document required to be delivered on the Closing Date pursuant to Section 4.01(a)(iv) or pursuant to Section 6.11 or Section 6.13 at such time, duly executed by each Loan Party party thereto;
- (b) all Obligations shall have been unconditionally guaranteed (the "Guarantees") by:
 - (i) Holdings (in the absence of any Intermediate Holding Company);
 - (ii) any Intermediate Holding Company;

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- (iii) the Transferred Company (so long as it is a party to the Guaranty);
 - (iv) each Restricted Subsidiary (other than any Excluded Subsidiary) that is a wholly-owned Material Subsidiary of the Transferred Company (so long as it is a party to the Guaranty) and that is a Domestic Subsidiary or a U.S. Subsidiary; and
 - (v) each Restricted Subsidiary (other than any Excluded Subsidiary) that is a wholly-owned Material Subsidiary and that is a Domestic Subsidiary or a U.S. Subsidiary, including those that are listed on Schedule I hereto (each, and OCP, a "Guarantor");
- (c) so long as OCP holds Equity Interests of the Transferred Company, the Obligations shall have been guaranteed by OCP pursuant to a limited recourse guaranty (the "**Limited Recourse Guarantee**"), substantially in the form of Exhibit F-2 (the "**Limited Recourse Guarantee**");
- (d) the Obligations and the Guarantees shall have been secured by a second-priority security interest in (i) all the Equity Interests of the Borrower and the Shareholder Subordinated Note and (ii) all Equity Interests (other than Equity Interests of Unrestricted Subsidiaries and any Equity Interest of any Restricted Subsidiary pledged to secure Indebtedness permitted under Section 7.03(g)) held by the Borrower or any Guarantor (other than OCP) in any Restricted Subsidiary that is a Domestic Subsidiary or a U.S. Subsidiary;
- (e) except to the extent otherwise provided hereunder or under any Collateral Document, the Obligations, and the Guarantees shall have been secured by a perfected security interest (other than in the case of mortgages, to the extent such security interest may be perfected by delivering certificated securities, filing PPSA or other personal property financing statements or making any necessary filings with the United States Patent and Trademark Office or United States Copyright Office or Canadian Intellectual Property Office) in, and mortgages on, substantially all tangible and intangible assets of Holdings, the Borrower and each other Guarantor (other than OCP) (including accounts receivable, inventory, equipment, investment property, intercompany notes, intellectual property, other general intangibles, owned (but not leased) real property and proceeds of the foregoing), in each case, with the priority required by the Collateral Documents; *provided* that security interests in real property shall be limited to the Mortgaged Properties;
- (f) the Obligations and the Limited Recourse Guarantee shall have been secured by all Equity Interests held by OCP in the Transferred Company;

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- (g) except to the extent otherwise provided hereunder or under any Collateral Document, the Obligations and the Limited Recourse Guarantee shall have been secured by a perfected security interest (to the extent such security interest may be perfected by delivering certificated securities or filing PPSA or other personal property financing statements) in the Equity Interests of the Transferred Company held by OCP (and proceeds of the foregoing), with the priority required by the Collateral Documents;
- (h) none of the Collateral shall be subject to any Liens other than Liens permitted by Section 7.01; and
- (i) the Collateral Agent shall have received (i) counterparts of a Mortgage with respect to each Material Real Property required to be delivered pursuant to Sections 4.01(a)(iv) (if applicable), 6.11 and 6.13 (the "**Mortgaged Properties**") duly executed and delivered by the record owner of such property, (ii) a title insurance policy for such property or the equivalent or other form available in each applicable jurisdiction (the "**Mortgage Policies**") insuring the Lien of each such Mortgage as a valid Lien on the property described therein, free of any other Liens except as expressly permitted by Section 7.01, together with such endorsements, coinsurance and reinsurance as the Collateral Agent may reasonably request, and (iii) such existing surveys, existing abstracts, existing appraisals, legal opinions and other documents as the Collateral Agent may reasonably request with respect to any such Mortgaged Property.

The foregoing definition shall not require the creation or perfection of pledges of or security interests in, or the obtaining of title insurance or surveys with respect to, particular assets if and for so long as the Administrative Agent and the Borrower agree the cost of creating or perfecting such pledges or security interests in such assets or obtaining title insurance or surveys in respect of such assets shall be excessive in view of the benefits to be obtained by the Lenders therefrom.

The Administrative Agent may grant extensions of time for the perfection of security interests in or the obtaining of title insurance and surveys with respect to particular assets (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with the Borrower, that perfection cannot be accomplished without undue effort or expense by the time or times at which it would otherwise be required by this Agreement or the Collateral Documents.

Notwithstanding the foregoing provisions of this definition or anything in this Agreement or any other Loan Document to the contrary, (a) with respect to leases of real property entered into by any Loan Party, such Loan Party shall not be required to take any action with respect to creation or perfection of security interests with respect to such leases, (b) Liens required to be granted from time to time pursuant to the Collateral and Guarantee Requirement shall be subject to exceptions and limitations set forth in the Collateral Documents and, to the extent appropriate in the applicable jurisdiction, as agreed between the Administrative Agent and the Borrower, (c) the Collateral and Guarantee Requirement shall not apply to any of the following assets: (i) any fee-owned real property that is not a Material Real Property and any leasehold interests in real property, (ii) motor vehicles and other assets subject to certificates of title, letter of credit rights and commercial tort claims, (iii) assets a pledge thereof or a security interest therein is prohibited

by law or by agreements containing anti-assignment clauses not overridden by PPSA or other applicable law and (iv) assets (including deposit and securities accounts) specifically requiring perfection through control agreements.

"Collateral Documents" means, collectively, the Security Agreement, the Quebec Security Documents, the Mortgages, each of the mortgages, collateral assignments, Security Agreement Supplements, security agreements, pledge agreements or other similar agreements delivered to the Collateral Agent and the Lenders pursuant to Sections 4.01(a)(iv), 6.11 or 6.13, the Guaranty, the Limited Recourse Guaranty and each of the other agreements, instruments or documents that creates or purports to create a Lien or Guarantee in favor of the Collateral Agent for the benefit of the Secured Parties.

"Commitment" means, as to each Lender, its obligation to make a Loan to the Borrower pursuant to Section 2.01 in an aggregate principal amount not to exceed the amount set forth opposite such Lender's name on Schedule 2.01 under the caption "Commitment" or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The initial aggregate amount of the Commitments is \$171,291,053.23.

"Commitment Letter" means the Commitment Letter dated May 11, 2007 among Apax/TN Holdings LLC and RBC, as amended, supplemented or otherwise modified from time to time.

"Committed Loan Notice" means a notice of (a) a Borrowing, (b) a conversion of Loans from one Type to the other, or (c) a continuation of Eurocurrency Rate Loans, pursuant to Section 2.02(a), which, if in writing, shall be substantially in the form of Exhibit A-1.

"Compensation Period" has the meaning specified in Section 2.13(c)(ii).

"Compliance Certificate" means a certificate substantially in the form of Exhibit C.

"Consolidated Capital Expenditures" means, with respect to any Person for any period, the aggregate of all expenditures of such Person and its Restricted Subsidiaries during such period determined on a consolidated basis that, in accordance with GAAP, are or should be included in "purchase of property and equipment" or similar items reflected in the consolidated statement of cash flows of such Person and its Restricted Subsidiaries.

"Consolidated Depreciation and Amortization Expense" means, with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of deferred financing fees or costs and Capitalized Software Expenditures of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

"Consolidated EBITDA" means, with respect to any Person for any period, the Consolidated Net Income of such Person for such period:

- (a) increased (without duplication) by the following, in each case to the extent deducted in determining Consolidated Net Income for such period:

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- (i) provision for taxes based on income or profits or capital, including, without limitation, state, franchise and similar taxes and foreign withholding taxes of such Person paid or accrued during such period; plus
- (ii) Consolidated Interest Expense of such Person for such period (including (x) net losses or any obligations under any Swap Contracts or other derivative instruments entered into for the purpose of hedging interest rate risk, (y) bank fees and (z) costs of surety bonds in connection with financing activities, plus amounts excluded from Consolidated Interest Expense as set forth in sub clauses (t) to (y) of clause (a) of the definition thereof); plus
- (iii) Consolidated Depreciation and Amortization Expense of such Person for such period; plus
- (iv) any expenses or charges (other than depreciation or amortization expense) related to any equity offering, Investment, acquisition, disposition, or recapitalization permitted hereunder or the incurrence of Indebtedness permitted to be incurred hereunder (including a refinancing thereof) (whether or not successful), including (A) such fees, expenses or charges related to the offering of the Loans, the First Lien Loans and any credit facilities and (B) any amendment or other modification of the Loans, the First Lien Loans and the credit facilities; plus
- (v) the amount of any restructuring charges, integration costs or other business optimization expenses, costs associated with establishing new facilities or reserves, including any one-time costs incurred in connection with acquisitions after the Closing Date, and costs related to the closure and/or consolidation of facilities; plus
- (vi) any other non-cash charges, (collectively, the “**Non-Cash Charges**”) including any write offs or write downs reducing Consolidated Net Income for such period (*provided* that if any such non-cash charges represent an accrual or reserve for potential cash items in any future period, the cash payment in respect thereof in such future period shall be subtracted from Consolidated EBITDA to such extent, and excluding amortization of a prepaid cash item that was paid in a prior period); plus
- (vii) the amount of any minority interest expense consisting of Subsidiary income attributable to minority equity interests of third parties in any non-wholly owned Subsidiary; plus
- (viii) the amount of management, monitoring, consulting and advisory fees (including termination fees) and related indemnities and expenses paid or accrued in such period to the Sponsor to the extent permitted under Section 7.08; plus

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- (ix) the amount of "run-rate" cost savings projected by the Borrower in good faith to result from actions either taken or expected to be taken prior to or during such period (which cost savings shall be subject only to certification by management of the Borrower and shall be calculated on a pro forma basis as though such cost savings had been realized on the first day of such period), net of the amount of actual benefits realized or expected to be realized prior to or during such period from such actions; provided, that (A) such cost savings are reasonably identifiable and (B) no cost savings shall be added pursuant to this clause (ix) to the extent duplicative of any expenses or charges relating to such cost savings that are included in clause (v) above with respect to such period (it being understood and agreed that "run-rate" means the full recurring benefit that is associated with any action taken or expected to be taken, provided that a material amount of such benefit is expected to be realized within 12 months of taking such action); plus
- (x) any costs or expense incurred by the Borrower or a Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Borrower or Net Cash Proceeds of an issuance of Equity Interests (other than Disqualified Equity Interests) of the Borrower; plus
- (xi) any net loss from disposed or discontinued operations; plus
- (xii) cash receipts (or any netting arrangements resulting in reduced cash expenditures) not representing Consolidated EBITDA or Consolidated Net Income in any period to the extent non-cash gains relating to such income were deducted in the calculation of Consolidated EBITDA pursuant to paragraph (b) below for any previous period and not added back; plus
- (xiii) interest income or investment earnings on retiree medical and intellectual property, royalty or license receivables; plus
- (xiv) the amount of allocated expenses from the Seller that are projected by the Borrower in good faith to be in excess of its stand-alone costs;
- (b) decreased (without duplication) by the following, in each case to the extent included in determining Consolidated Net Income for such period:
 - (i) non-cash gains increasing Consolidated Net Income of such Person for such period, excluding any non-cash gains to the extent they represent the reversal of an accrual or reserve for a potential cash

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item that reduced Consolidated EBITDA in any prior period and any non-cash gains with respect to cash actually received in a prior period so long as such cash did not increase Consolidated EBITDA in such prior period; plus

- (ii) any net income from disposed or discontinued operations;
- (c) increased or decreased without duplication, as applicable, by any adjustments resulting from the application of FASB Interpretation No. 45 (Guarantees) or any comparable regulation; and
- (d) decreased (to the extent not already deducted in determining Consolidated EBITDA) by any Restricted Payments made pursuant to Section 7.06(g)(ii).

There shall be included in determining Consolidated EBITDA for any period, without duplication, (A) the Acquired EBITDA of any Person, property, business or asset acquired by the Borrower or any Restricted Subsidiary during such period (but not the Acquired EBITDA of any related Person, property, business or assets to the extent not so acquired), to the extent not subsequently sold, transferred or otherwise disposed of by the Borrower or such Restricted Subsidiary during such period (each such Person, property, business or asset acquired and not subsequently so disposed of, an **"Acquired Entity or Business"**) and the Acquired EBITDA of any Unrestricted Subsidiary that is converted into a Restricted Subsidiary during such period (each a **"Converted Restricted Subsidiary"**), based on the actual Acquired EBITDA of such Acquired Entity or Business or Converted Restricted Subsidiary for such period (including the portion thereof occurring prior to such acquisition) and (B) for the purposes of compliance with the Adjusted Senior Secured Leverage Ratio and Senior Secured Incurrence Test, an adjustment in respect of each Acquired Entity or Business equal to the amount of the Pro Forma Adjustment with respect to such Acquired Entity or Business for such period (including the portion thereof occurring prior to such acquisition) as specified in a certificate executed by a Responsible Officer and delivered to the Lenders and the Administrative Agent. For purposes of determining the Adjusted Senior Secured Leverage Ratio and Total Leverage Ratio and the Senior Secured Leverage Ratio, there shall be excluded in determining Consolidated EBITDA for any period the Disposed EBITDA of any Person, property, business or asset (other than an Unrestricted Subsidiary) sold, transferred or otherwise disposed of, closed or classified as discontinued operations by the Borrower or any Restricted Subsidiary during such period (each such Person, property, business or asset so sold or disposed of, a **"Sold Entity or Business"**) and the Disposed EBITDA of any Restricted Subsidiary that is converted into an Unrestricted Subsidiary during such period (each a **"Converted Unrestricted Subsidiary"**), based on the actual Disposed EBITDA of such Sold Entity or Business or Converted Unrestricted Subsidiary for such period (including the portion thereof occurring prior to such sale, transfer or disposition).

"Consolidated Fixed Charges" means, with respect to the Borrower for any period, the sum, without duplication, of the amounts determined for such Person and its Restricted Subsidiaries on a consolidated basis equal to (i) Consolidated Interest Expense of the Borrower for such period paid or payable in cash, (ii) scheduled payments of principal on Consolidated Total Debt in such period, (iii) Consolidated Capital Expenditures of the Borrower in such period, and (iv) provisions for taxes based on income of such Person and its Restricted Subsidiaries and payable in cash with respect to such period.

"Consolidated Interest Expense" means, with respect to any Person for any period, without duplication, the sum of:

- (a) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted (and not added back) in computing Consolidated Net Income (including (i) amortization of original issue discount resulting from the issuance of Indebtedness at less than par, (ii) all commissions, discounts and other fees and charges owed with respect to letters of credit or bankers acceptances, (iii) non-cash interest payments (but excluding any non-cash interest expense attributable to the movement in the mark to market valuation of obligations under any Swap Contracts or other derivative instruments pursuant to GAAP), (iv) the interest component of Capitalized Lease Obligations, and (v) net payments, if any, made (less net payments, if any, received) pursuant to interest rate obligations under any Swap Contracts with respect to Indebtedness, and excluding (t) any expense resulting from the discounting of any Indebtedness in connection with the application of purchase accounting in connection with the Transaction or any acquisition, (u) penalties and interest relating to taxes, (v) any additional interest owing pursuant to the registration rights agreement with respect to securities, (w) amortization of deferred financing fees, debt issuance costs, commissions, fees and expenses, (x) any expensing of bridge, commitment and other financing fees, and (y) any accretion of accrued interest on discounted liabilities; plus
- (b) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; less
- (c) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by such Person to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of determining Consolidated Interest Expense for any period ending prior to the first anniversary of the Closing Date, Consolidated Interest Expense (i) for the Test Period ending at the end of the first complete fiscal quarter after the Closing Date shall be Consolidated Interest Expense for the period between the Closing Date and the end of the first complete fiscal quarter after the Closing Date, multiplied by 4, (ii) for the Test Period ending at the end of the second complete fiscal quarter after the Closing Date shall be Consolidated Interest Expense for the period between the Closing Date and the end of the second complete fiscal quarter after the Closing Date, multiplied by 2, and (iii) for the Test Period ending at the end of the third complete fiscal quarter after the

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Closing Date shall be Consolidated Interest Expense for the period between the Closing Date and the end of the third complete fiscal quarter after the Closing Date, multiplied by 4/3.

"Consolidated Lease Expense" means, for any period, all rental expenses (excluding real estate taxes, insurance costs and common area maintenance charges and net of sublease income) of the Borrower and its Restricted Subsidiaries during such period under operating leases for real or personal property (including in connection with Permitted Sale Leasebacks) other than (a) obligations under vehicle leases entered into in the ordinary course of business, (b) all such rental expenses associated with assets acquired pursuant to a Permitted Acquisition to the extent such rental expenses relate to operating leases in effect at the time of (and immediately prior to) such acquisition and related to periods prior to such acquisition and (c) all obligations under Capitalized Leases, all as determined on a consolidated basis in accordance with GAAP.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis, and otherwise determined in accordance with GAAP; *provided, however*, that, without duplication,

- (a) any after-tax effect of extraordinary, non-recurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses (including relating to the Transaction Expenses or any multi-year strategic initiatives), severance, relocation costs and curtailments or modifications to pension and post-retirement employee benefit plans shall be excluded,
- (b) the Net Income for such period shall not include the cumulative effect of a change in accounting principles and changes as a result of the adoption or modification of accounting policies during such period,
- (c) any net after-tax gains or losses on disposal of disposed, abandoned or discontinued operations shall be excluded,
- (d) any after-tax effect of gains or losses (less all fees and expenses relating thereto) attributable to asset dispositions or abandonments or the sale or other disposition of any Equity Interests of any Person other than in the ordinary course of business shall be excluded,
- (e) the Net Income for such period of any Person that is not a Subsidiary, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be excluded to the extent such Person or Unrestricted Subsidiary is prohibited by contract (including its Organization Documents) from making dividends or distributions to the Borrower or a Restricted Subsidiary; *provided* that Consolidated Net Income of the Borrower shall be increased by the amount of dividends or distributions or other payments that are actually paid to the Borrower or a Restricted Subsidiary thereof in respect of such period.
- (f) solely for the purpose of calculating the Available Amount, the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) shall be excluded to the extent that the declaration or payment

of dividends or similar distributions by such Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule, or governmental regulation applicable to that Restricted Subsidiary, unless such restriction with respect to the payment of dividends or similar distributions has been legally waived; *provided* that Consolidated Net Income of the Borrower will be increased by the amount of dividends or other distributions or other payments actually paid in cash (or to the extent converted into cash) to the Borrower or a Restricted Subsidiary thereof in respect of such period, to the extent not already included therein,

- (g) effects of adjustments (including the effects of such adjustments pushed down to the Borrower and its Restricted Subsidiaries) in the inventory, property and equipment, software, goodwill, other intangible assets, in-process research and development, deferred revenue and debt line items in such Person's consolidated financial statements pursuant to GAAP resulting from the application of purchase accounting in relation to the Transaction or any consummated acquisition or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded,
- (h) any after-tax effect of income (loss) from the early extinguishment of (i) Indebtedness, (ii) obligations under any Swaps Contracts or (iii) other derivative instruments shall be excluded,
- (i) any impairment charge or asset write-off or write-down, including impairment charges or asset write-offs or write-downs related to intangible assets, long-lived assets, investments in debt and equity securities or as a result of a change in law or regulation, in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to GAAP shall be excluded,
- (j) any non-cash compensation charge or expense, including any such charge arising from the grants of stock appreciation or similar rights, stock options, restricted stock or other rights shall be excluded,
- (k) any fees and expenses incurred during such period, or any amortization thereof for such period, in connection with any acquisition, Investment, Disposition, issuance or repayment of Indebtedness, issuance of Equity Interests, refinancing transaction or amendment or modification of any debt instrument (in each case, including any such transaction consummated prior to the Closing Date and any such transaction undertaken but not completed) and any charges or non-recurring merger costs incurred during such period as a result of any such transaction shall be excluded,

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- (l) accruals and reserves that are established within twelve months after the Closing Date that are so required to be established as a result of the Transaction in accordance with GAAP shall be excluded, and
- (m) the following items shall be excluded:
 - (i) any net unrealized gain or loss (after any offset) resulting in such period from obligations under any Swap Contracts and the application of Statement of Financial Accounting Standards No. 133; and
 - (ii) any net unrealized gain or loss (after any offset) resulting in such period from currency translation gains or losses including those (x) related to currency remeasurements of Indebtedness and (y) resulting from hedge agreements for currency exchange risk.

In addition, to the extent not already included in the Consolidated Net Income of such Person and its Restricted Subsidiaries, notwithstanding anything to the contrary in the foregoing, Consolidated Net Income shall include (i) any expenses and charges that are reimbursed by indemnification or other reimbursement provisions in connection with any investment or any sale, conveyance, transfer or other disposition of assets permitted hereunder and (ii) to the extent covered by insurance and actually reimbursed, or, so long as the Borrower has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (A) not denied by the applicable carrier in writing within 180 days and (B) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within such 365 days), expenses with respect to liability or casualty events or business interruption.

"Consolidated Senior Secured Debt" means, as of any date of determination, (a) the aggregate principal amount of Indebtedness of the Borrower and its Restricted Subsidiaries outstanding on such date, determined on a consolidated basis in accordance with GAAP (but excluding the effects of any discounting of Indebtedness resulting from the application of purchase accounting in connection with the Transaction or any Permitted Acquisition), consisting of (i) Loans hereunder; (ii) the First Lien Obligations; and (iii) any other Indebtedness for borrowed money or debt obligations evidenced by promissory notes or similar instruments that are secured by a Lien, minus (b) (i) the aggregate average amount of cash and Cash Equivalents (in each case, free and clear of all Liens, other than nonconsensual Liens permitted by Section 7.01 and Liens permitted by Section 7.01(t) and clauses (i) and (ii) of Section 7.01(u)) included in the consolidated balance sheet of the Borrower and its Restricted Subsidiaries as of the end of each quarter during the four-quarter period ending immediately prior to such date of determination, (ii) Indebtedness incurred pursuant to Section 7.03(f), and (iii) Indebtedness (to the extent otherwise included in (a) above) of any Subsidiary that is not a Loan Party; *provided* that Consolidated Senior Secured Debt shall not include (i) all "Letters of Credit" (as defined in the First Lien Credit Agreement), except to the extent of "Unreimbursed Amounts" (as defined in the First Lien Credit Agreement) thereunder or (ii) obligations under Swap Contracts entered into in the ordinary course of business and not for speculative purposes.

"Consolidated Total Debt" means, as of any date of determination, (a) the aggregate principal amount of Indebtedness of the Borrower and its Restricted Subsidiaries outstanding on such date,

determined on a consolidated basis in accordance with GAAP (but excluding the effects of any discounting of Indebtedness resulting from the application of purchase accounting in connection with the Transaction or any Permitted Acquisition), consisting of Indebtedness for borrowed money, obligations in respect of Capitalized Leases and debt obligations evidenced by promissory notes or similar instruments, minus (b) (i) the aggregate amount of cash and Cash Equivalents (in each case, free and clear of all Liens, other than nonconsensual Liens permitted by Section 7.01 and Liens permitted by Section 7.01(t) and clauses (i) and (ii) of Section 7.01(u)) included in the consolidated balance sheet of the Borrower and its Restricted Subsidiaries as of such date and (ii) the aggregate principal amount of the Shareholder Subordinated Note to the extent included in clause (a) above; *provided* that Consolidated Total Debt shall not include (i) all "Letters of Credit" (as defined in the First Lien Credit Agreement), except to the extent of "Unreimbursed Amounts" (as defined in the First Lien Credit Agreement) thereunder or (ii) obligations under Swap Contracts entered into in the ordinary course of business and not for speculative purposes.

"Consolidated Working Capital" means, at any date, the excess of (a) the sum of (i) all amounts (other than cash and Cash Equivalents) that would, in conformity with GAAP, be set forth opposite the caption "total current assets" (or any like caption) on a consolidated balance sheet of the Borrower and its Restricted Subsidiaries at such date and (ii) long-term accounts receivable over (b) the sum of (i) all amounts that would, in conformity with GAAP, be set forth opposite the caption "total current liabilities" (or any like caption) on a consolidated balance sheet of the Borrower and its Restricted Subsidiaries on such date and (ii) long-term deferred revenue, but excluding, without duplication, (a) the current portion of any Funded Debt, (b) all Indebtedness consisting of "Revolving Credit Loans", "Swing Line Loans" and "L/C Obligations" (each as defined in the First Lien Credit Agreement) to the extent otherwise included therein, (c) the current portion of interest, (d) the current portion of current and deferred income taxes, (e) the current portion of any Capitalized Lease Obligations and (f) deferred revenue arising from cash receipts that are earmarked for specific projects.

"Continuing Directors" means the directors of Holdings or the Borrower, as the case may be, on the Closing Date, as elected or appointed after giving effect to the Acquisition and the other transactions contemplated hereby, and each other director, if, in each case, such other director's nomination for election to the board of directors of Holdings or the Borrower, as the case may be (or the direct or indirect parent of the Borrower after a Qualifying IPO of such direct or indirect parent) is recommended by a majority of the then Continuing Directors or such other director receives the vote of the Permitted Holders in his or her election by the stockholders of Holdings or the Borrower, as the case may be (or the direct or indirect parent of the Borrower after a Qualifying IPO of such direct or indirect parent).

"Contract Consideration" has the meaning specified in the definition of "Excess Cash Flow".

"Contractual Obligation" means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Control" has the meaning specified in the definition of "Affiliate".

"Converted Restricted Subsidiary" has the meaning specified in the definition of "Consolidated EBITDA".

"Converted Unrestricted Subsidiary" has the meaning specified in the definition of "Consolidated EBITDA".

"Cumulative Excess Cash Flow" means the sum of Excess Cash Flow (but not less than zero for any period) for each fiscal year completed subsequent to the Closing Date (it being understood that no Excess Cash Flow generated during any period shall be deemed to be Cumulative Excess Cash Flow until the financial statements for such period are delivered pursuant to Section 6.01(a), the related Compliance Certificate is delivered pursuant to Section 6.02(a) and the Borrower has complied with Section 2.06(b)(i) of the First Lien Credit Agreement with respect to Excess Cash Flow for such period).

"Debtor Relief Laws" means the Bankruptcy Code of the United States, the BIA, the CCAA, the WURA and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of Canada, the United States or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

"Declined Proceeds" has the meaning specified in Section 2.06(b)(v).

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

"Default Rate" means an interest rate equal to (a) the Base Rate plus (b) the Applicable Rate applicable to Base Rate Loans plus (c) 2.0% per annum; *provided* that with respect to a Eurocurrency Rate Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan plus 2.0% per annum, in each case, to the fullest extent permitted by applicable Laws.

"Defaulting Lender" means any Lender that (a) has failed to fund any portion of the Loans required to be funded by it hereunder within one (1) Business Day of the date required to be funded by it hereunder, unless the subject of a good faith dispute (or a good faith dispute that is subsequently cured), (b) has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within one (1) Business Day of the date when due, unless the subject of a good faith dispute (or a good faith dispute that is subsequently cured), or (c) has been deemed insolvent or become the subject of a bankruptcy or insolvency proceeding.

"Disposed EBITDA" means, with respect to any Sold Entity or Business or any Converted Unrestricted Subsidiary for any period, the amount for such period of Consolidated EBITDA of such Sold Entity or Business or such Converted Unrestricted Subsidiary, all as determined on a consolidated basis for such Sold Entity or Business or such Converted Unrestricted Subsidiary.

"Disposition" or **"Dispose"** means the sale, transfer, license, lease or other disposition (including any Sale Leaseback and any sale of Equity Interests) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith; *provided* that **"Disposition"** and **"Dispose"** shall not be deemed to include any issuance by Holdings of any of its Equity Interests to another Person.

"Disqualified Equity Interests" means any Equity Interest which, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests), pursuant to a sinking fund obligation or otherwise (except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Obligations that are accrued and payable and the termination of the Commitments, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests), in whole or in part, (c) provides for the scheduled payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Equity Interests, in each case, prior to the date that is ninety-one (91) days after the Maturity Date.

"Dollar" and **"\$"** mean lawful money of the United States.

"Dollar Equivalent" means, on any date of determination, (a) with respect to any amount denominated in Dollars, such amount, and (b) with respect to any amount denominated in Canadian Dollars, the equivalent in Dollars of such amount determined by the Administrative Agent in accordance with normal banking industry practice using the Exchange Rate on the date of determination of such equivalent. In making any determination of the Dollar Equivalent (for purposes of calculating the amount of Loans to be borrowed from the respective Lenders on any date or for any other purpose), the Administrative Agent shall use the relevant Exchange Rate in effect on the date on which the Borrower delivers a Committed Loan Notice (which, in accordance with Section 2.02(a), may be telephonic) with respect to such Borrowing or on such other date upon which a Dollar Equivalent is required to be determined pursuant to the provisions of this Agreement. As appropriate, amounts specified herein as amounts in Dollars shall be or include any relevant Dollar Equivalent amount.

"Domestic Subsidiary" means any Subsidiary that is incorporated or formed under the Laws of Canada or any province thereof.

"Eligible Assignee" means any Assignee permitted by and consented to in accordance with Section 10.07(b).

"EMU" means the economic and monetary union as contemplated in the Treaty on European Union.

"Environmental Laws" means any and all Laws relating to pollution, the protection of the environment, natural resources or to the release of any Hazardous Materials into the environment, or, to the extent relating to exposure to Hazardous Materials, human health.

"Environmental Liability" means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities) of any Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment

or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

"Environmental Permit" means any permit, approval, identification number, license or other authorization required under any applicable Environmental Law.

"Equity Contribution" means the contribution by the Equity Investors to the Borrower, directly or indirectly, of an aggregate amount of cash equity and/or subordinated shareholder loans evidenced by the Shareholder Subordinated Note of not less than 17.5% of the aggregate pro forma capitalization of the Borrower on the Closing Date.

"Equity Interests" means, with respect to any Person, all of the shares, interests, rights, participations or other equivalents (however designated) of capital stock of (or other ownership or profit interests or units in) such Person and all of the warrants, options or other rights for the purchase, acquisition or exchange from such Person of any of the foregoing (including through convertible securities).

"Equity Investors" means the Sponsor, the Management Stockholders and affiliates of JPMorgan Chase Bank, National Association.

"Eurocurrency Rate" means, for any Interest Period with respect to any Eurocurrency Rate Loan:

- (a) the rate per annum equal to the rate determined by the Administrative Agent to be the offered rate that appears on the page of the LIBOR I screen (or any successor thereto) that displays an average British Bankers Association Interest Settlement Rate for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period, or
- (b) if the rate referenced in the preceding subsection (a) does not appear on such page or service or such page or service shall cease to be available, the rate per annum equal to the rate determined by the Administrative Agent to be the offered rate on such other page or other service that displays an average British Bankers Association Interest Settlement Rate for deposits in Dollars (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period, determined as of approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period, or
- (c) if the rates referenced in the preceding subsections (a) and (b) are not available, the rate per annum determined by the Administrative Agent as the rate of interest (rounded upward to the next 1/100th of 1%) at which deposits in Dollars for delivery on the first day of such Interest Period in same day funds in the approximate amount of the Eurocurrency Rate Loan being made, continued or converted by the Administrative Agent and with a term equivalent to such interest Period would be offered by the Administrative Agent's London Branch to major banks in the offshore

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Dollar market at their request at approximately 11:00 a.m. (London time) two Business Days prior to the first day of such Interest Period.

"Eurocurrency Rate Loan" means a Loan that bears interest at a rate based on the Eurocurrency Rate.

"Event of Default" has the meaning specified in Section 8.01.

"Excess Cash Flow" means, for any period, an amount equal to the excess of:

- (a) the sum, without duplication, of:
 - (i) Consolidated Net Income for such period,
 - (ii) an amount equal to the amount of all non-cash charges (including depreciation and amortization) to the extent deducted in arriving at such Consolidated Net Income,
 - (iii) decreases in Consolidated Working Capital for such period (other than any such decreases arising from acquisitions by the Borrower and its Restricted Subsidiaries completed during such period or the application of purchase accounting), and
 - (iv) an amount equal to the aggregate net non-cash loss on Dispositions by the Borrower and its Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent deducted in arriving at such Consolidated Net Income; over
- (b) the sum, without duplication, of:
 - (i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income and cash charges included in clauses (a) through (f) of the definition of Consolidated Net Income,
 - (ii) without duplication of amounts deducted pursuant to clause (xi) below in prior fiscal years, the amount of Capital Expenditures or acquisitions of intellectual property made in cash during such period, to the extent that such Capital Expenditures or acquisitions were financed with internally generated cash flow of the Borrower or its Restricted Subsidiaries,
 - (iii) the aggregate amount of all principal payments of Indebtedness of the Borrower and its Restricted Subsidiaries (including (A) the principal component of payments in respect of Capitalized Leases and (B) the amount of repayments of First Lien Term Loans pursuant to Section 2.08(a) of the First Lien Credit Agreement and any mandatory prepayment of First Lien Term Loans pursuant to Section 2.06(b)(ii) of the First Lien Credit Agreement to the extent required due to a Disposition that resulted in an increase to such

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Consolidated Net Income and not in excess of the amount of such increase but excluding (X) all other prepayments of First Lien Term Loans, (Y) all prepayments under the "Revolving Credit Facility" (as defined in the First Lien Credit Agreement) and (Z) all prepayments in respect of any other revolving credit facility, except, in the case of clause (Z), to the extent there is an equivalent permanent reduction in commitments thereunder) made during such period, except to the extent financed with the proceeds of incurrence or issuance of other Indebtedness of the Borrower or its Restricted Subsidiaries,

- (iv) an amount equal to the aggregate net non-cash gain on Dispositions by the Borrower and its Restricted Subsidiaries during such period (other than Dispositions in the ordinary course of business) to the extent included in arriving at such Consolidated Net Income,
- (v) increases in Consolidated Working Capital for such period (other than any such increases arising from acquisitions by the Borrower and its Restricted Subsidiaries completed during such period or the application of purchase accounting),
- (vi) cash payments by the Borrower and its Restricted Subsidiaries during such period in respect of long-term liabilities of the Borrower and its Restricted Subsidiaries other than Indebtedness (including such Indebtedness specified in clause (b)(iii) above),
- (vii) without duplication of amounts deducted pursuant to clause (xi) below in prior fiscal years, the amount of Investments and acquisitions made during such period to the extent that such Investments and acquisitions were financed with internally generated cash flow of the Borrower and its Restricted Subsidiaries,
- (viii) the amount of Restricted Payments paid during such period pursuant to Section 7.06(n) to the extent such Restricted Payments were financed with internally generated cash flow of the Borrower and its Restricted Subsidiaries,
- (ix) the aggregate amount of expenditures actually made by the Borrower and its Restricted Subsidiaries in cash during such period (including expenditures for the payment of financing fees) to the extent that such expenditures are not expensed during such period,
- (x) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower and its Restricted Subsidiaries during such period that are required to be made in connection with any prepayment of Indebtedness,

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- (xi) without duplication of amounts deducted from Excess Cash Flow in prior periods, the aggregate consideration required to be paid in cash by the Borrower or any of its Restricted Subsidiaries pursuant to binding contracts (the "Contract Consideration") entered into prior to or during such period relating to Permitted Acquisitions, Capital Expenditures or acquisitions of intellectual property to be consummated or made during the period of four consecutive fiscal quarters of the Borrower following the end of such period; *provided* that to the extent the aggregate amount of internally generated cash flow actually utilized to finance such Permitted Acquisitions, Capital Expenditures or acquisitions of intellectual property during such period of four consecutive fiscal quarters is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters, and
- (xii) the amount of cash taxes paid or tax reserves set aside or payable (without duplication) in such period to the extent they exceed the amount of tax expense deducted in determining Consolidated Net Income for such period.

"Excess Prepayment Amount" has the meaning specified in Section 2.06(b)(vii).

"Exchange Act" means the *Securities Exchange Act* of 1934.

"Exchange Rate" means, on any date of determination, with respect to obligations or valuations denominated in Canadian Dollars, the amount of Dollars which would result from the Administrative Agent converting at the noon spot rate quoted by the Bank of Canada Canadian Dollars into Dollars at approximately 12:00 noon (Toronto time) on such day in accordance with the Administrative Agent's customary practice for commercial loans being administered by it.

"Excluded Subsidiary" means (a) each Subsidiary listed on Schedule 1.01C hereto, (b) any Subsidiary that is prohibited by applicable Law from guaranteeing the Obligations, (d) any Restricted Subsidiary acquired pursuant to a Permitted Acquisition financed with secured Indebtedness incurred pursuant to Section 7.03(h) and each Restricted Subsidiary that is a Subsidiary thereof that guarantees such Indebtedness; *provided* that each such Restricted Subsidiary shall cease to be an Excluded Subsidiary under this clause (c) if such secured Indebtedness is repaid or becomes unsecured or if such Restricted Subsidiary ceases to guarantee such secured Indebtedness, as applicable and (f) any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent (confirmed in writing by notice to the Borrower), the cost or other consequences (including any adverse tax consequences) of providing a Guarantee shall be excessive in view of the benefits to be obtained by the Lenders therefrom.

"Excluded Taxes" means, (a) with respect to each Agent and each Lender, taxes (including any additions to tax, penalties and interest) imposed on it by the jurisdiction (or any political subdivision thereof) under the Laws of which such Agent or such Lender, as the case may be, is resident or deemed to be resident, is organized, maintains an Applicable Lending Office, or carries on business or is deemed to carry on business to which such payment relates, (b) all taxes

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payable under Part XIII of the *Tax Act* as a result of a Lender not being or ceasing to be a Qualifying Canadian Lender in respect of any payment made by the Borrower or a Guarantor to such Lender (other than as a Term Lender) and (c) any withholding tax that is imposed by a jurisdiction in which the Borrower or any Guarantor is located, organized or resident for tax purposes on amounts payable to a Lender under the law in effect at the time such Lender becomes a party to this Agreement (or, in the case of a Participant, on the date such Participant became a Participant hereunder); *provided* that this clause (c) shall not apply to the extent that (x) the indemnity payments or additional amounts any Lender (or Participant) would be entitled to receive (without regard to this clause (c)) do not exceed the indemnity payment or additional amounts that the person making the assignment, participation or transfer to such Lender (or Participant) would have been entitled to receive in the absence of such assignment, participation or transfer or (y) any Tax is imposed on a Lender in connection with an interest or participation in any Loan or other obligations that such Lender was required to acquire pursuant to Section 2.14 or that such Lender acquired pursuant to Section 3.07(d) (it being understood and agreed, for the avoidance of doubt, that any withholding tax imposed on a Lender as a result of a Change of Law occurring after the time such Lender became a party to this Agreement (or designates a new lending office) shall not be an Excluded Tax).

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank on the Business Day next succeeding such day; *provided* that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) of the quotations for the day of such transactions received by the Administrative Agent from three federal funds brokers of recognized standing selected by it.

"First Lien Collateral Agent" means the "Collateral Agent" under and as defined in the First Lien Credit Agreement.

"First Lien Credit Agreement" means the First Lien Credit Agreement (as the same may be amended, restated, modified, supplemented, extended or amended and restated from time to time) among the Borrower, Holdings, Royal Bank of Canada, as administrative agent, collateral agent and swingline lender, and each lender from time to time party thereto.

"First Lien Loan Documents" means the "Loan Documents" under and as defined in the First Lien Credit Agreement.

"First Lien Loans" means the "Loans" under and as defined in the First Lien Credit Agreement.

"First Lien Obligations" means the "Obligations" under and as defined in the First Lien Credit Agreement.

"First Lien Term Loans" means the "Term Loans" under and as defined in the First Lien Credit Agreement.

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"Fixed Charge Coverage Ratio" means, with respect to any Test Period, the ratio of (a) Consolidated EBITDA of the Borrower for such Test Period to (b) Consolidated Fixed Charges for such Test Period.

"Foreign Casualty Event" has the meaning specified in Section 2.06(b)(vi).

"Foreign Disposition" has the meaning specified in Section 2.06(b)(vi).

"Foreign Plan" means any employee benefit plan, program, policy, arrangement or agreement maintained or contributed to by, or entered into with, any Loan Party or any Subsidiary with respect to employees employed outside of Canada and, for greater certainty, shall not include in its meaning any arrangements that are Canadian Benefit Plans or Canadian Pension Plans.

"Foreign Subsidiary" means any direct or indirect Restricted Subsidiary of the Borrower which is not a Domestic Subsidiary.

"FRB" means the Board of Governors of the Federal Reserve System of the United States.

"Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course.

"Funded Debt" means all Indebtedness of the Borrower and its Restricted Subsidiaries for borrowed money that matures more than one year from the date of its creation or matures within one year from such date that is renewable or extendable, at the option of such Person, to a date more than one year from such date or arises under a revolving credit or similar agreement that obligates the lender or lenders to extend credit during a period of more than one year from such date, including Indebtedness in respect of the Loans.

"GAAP" means generally accepted accounting principles in Canada, as in effect from time to time; *provided, however*, that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Closing Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

"Governmental Authority" means any nation or government, any state, provincial, territorial or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, administrative tribunal, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Granting Lender" has the meaning specified in Section 10.07(h).

"Guarantee" has the meaning specified in the definition of "Collateral and Guarantee Requirement".

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"Guarantee Obligations" means, as to any Person, without duplication, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another Person (the **"primary obligor"**) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other monetary obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance of such Indebtedness or other monetary obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other monetary obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other monetary obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other monetary obligation of any other Person, whether or not such Indebtedness or other monetary obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien); *provided* that the term **"Guarantee Obligation"** shall not include endorsements for collection or deposit, in either case in the ordinary course of business, or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or disposition of assets permitted under this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee Obligation shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

"Guarantors" has the meaning specified in the definition of **"Collateral and Guarantee Requirement"**.

"Guaranty" means (a) the guaranty made by Holdings and the Subsidiary Guarantors in favor of the Administrative Agent on behalf of the Secured Parties, substantially in the form of Exhibit E-1; and (b) each other guaranty and guaranty supplement delivered pursuant to Section 6.11.

"Hazardous Materials" means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any applicable Environmental Law.

"Holdings" has the meaning specified in the introductory paragraph to this Agreement.

"Incremental Amendment" has the meaning specified in Section 2.15(a).

"Incremental Availability" has the meaning specified in Section 2.15(a).

"Incremental Facility Closing Date" has the meaning specified in Section 2.15(a).

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"Incremental First Lien Term Loans" shall mean the "Incremental Term Loans" under and as defined in the First Lien Credit Agreement.

"Incremental Term Loans" has the meaning specified in Section 2.15(a).

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) the maximum amount (after giving effect to any prior drawings or reductions which may have been reimbursed) of all letters of credit (including standby and commercial), banker's acceptances, bank guaranties, surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;
- (c) net obligations of such Person under any Swap Contract;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than (i) trade accounts payable in the ordinary course of business and (ii) any earn-out obligation until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and if not paid after becoming due and payable);
- (e) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements and mortgage, industrial revenue bond, industrial development bond and similar financings), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse;
- (f) all Attributable Indebtedness;
- (g) all obligations of such Person in respect of Disqualified Equity Interests; and
- (h) all Guarantee Obligations of such Person in respect of any of the foregoing.

For all purposes hereof, the Indebtedness of any Person shall (A) include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which such Person is a general partner or a joint venturer, except to the extent such Person's liability for such Indebtedness is otherwise limited and only to the extent such Indebtedness would be included in the calculation of Consolidated Total Debt and (B) in the case of the Borrower and its Subsidiaries, exclude all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary of business consistent with past practice. The amount of any net obligation under any

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Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of Indebtedness of any Person for purposes of clause (e) shall be deemed to be equal to the lesser of (i) the aggregate unpaid amount of such Indebtedness and (ii) the fair market value of the property encumbered thereby as determined by such Person in good faith.

"Indemnified Liabilities" has the meaning specified in Section 10.05.

"Indemnitees" has the meaning specified in Section 10.05.

"Information" has the meaning specified in Section 10.08.

"Intercreditor Agreement" means the Intercreditor Agreement to be executed and delivered by the Collateral Agent, the First Lien Collateral Agent, the Borrower and Holdings, substantially in the form of Exhibit H.

"Interest Payment Date" means, (a) as to any Loan other than a Base Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date; *provided* that if any Interest Period for a Eurocurrency Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the Maturity Date.

"Interest Period" means, as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, two, three or six months thereafter, or to the extent available to each Lender of such Eurocurrency Rate Loan, nine or twelve months thereafter or any earlier date, as selected by the Borrower in its Committed Loan Notice; *provided* that:

- (a) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;
- (b) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and
- (c) no Interest Period shall extend beyond the Maturity Date.

"Intermediate Holding Company" means any Subsidiary of Holdings that, directly or indirectly, owns 100% of the issued and outstanding Equity Interests of the Borrower.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee Obligation with respect to or assumption of Indebtedness of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person (excluding, in the case of the Borrower and its

Subsidiaries, intercompany loans, advances, or Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business consistent with past practice) or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"Investment Grade Rating" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's and BBB- (or the equivalent) by S&P, or an equivalent rating by Dominion Bond Rating Service Inc. or any other nationally recognized statistical rating agency selected by the Borrower.

"IP Rights" has the meaning specified in Section 5.14.

"IRS" means the United States Internal Revenue Service.

"Judgment Currency" has the meaning specified in Section 10.17.

"Laws" means, collectively, all international, foreign, federal, state, provincial and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority.

"Lender" has the meaning specified in the introductory paragraph to this Agreement and their respective successors and assigns as permitted hereunder, each of which is referred to herein as a "Lender".

"Lien" means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, hypothec or preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capitalized Lease having substantially the same economic effect as any of the foregoing).

"Limited Recourse Guarantee" has the meaning specified in the definition of "Collateral and Guarantee Requirements".

"Limited Recourse Guaranty" has the meaning specified in the definition of "Collateral and Guarantee Requirement".

"Loan" means a Loan made pursuant to Section 2.01 and any Incremental Term Loans or any Additional Incremental Term Loans.

"Loan Documents" means, collectively, (i) this Agreement, (ii) the Term Notes, (iii) the Collateral Documents and (iv) the Intercreditor Agreement.

"Loan Parties" means, collectively, (i) the Borrower, (ii) Holdings and (iii) each other Guarantor (other than OCP).

"Management Stockholders" means the members of management of Holdings or any direct or indirect parent thereof or any of its Subsidiaries, including the Borrower, who are investors in Holdings or any direct or indirect parent thereof.

"Master Agreement" has the meaning specified in the definition of "Swap Contract".

"Material Adverse Effect" means (a) a material adverse effect on the business, operations, assets, liabilities (actual or contingent) or financial condition of the Borrower and its Subsidiaries, taken as a whole, (b) a material adverse effect on the ability of the Loan Parties (taken as a whole) to perform their respective payment obligations under any Loan Document to which any of the Loan Parties is a party or (c) a material adverse effect on the rights and remedies of the Lenders or the Agents under any Loan Document.

"Material Real Property" means any real property owned by any Loan Party with a book value in excess of \$5,000,000.

"Material Subsidiary" means, at any date of determination, each of the Borrower's Subsidiaries (a) whose total assets at the last day of the most recent Test Period were equal to or greater than 5% of the Total Assets of the Borrower and its Restricted Subsidiaries at such date or (b) whose gross revenues for such Test Period were equal to or greater than 5% of the consolidated gross revenues of the Borrower and its Restricted Subsidiaries for such period, in each case determined in accordance with GAAP; *provided* that "Material Subsidiary" shall also include any of the Borrower's Subsidiaries selected by the Borrower which is required to ensure that all Material Subsidiaries have in the aggregate (i) total assets at the last day of the most recent Test Period that were equal to or greater than 90% of the total assets of the Borrower and the Restricted Subsidiaries at such date and (ii) gross revenues for such Test Period that were equal to or greater than 90% of the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such period, in each case determined in accordance with GAAP.

"Maturity Date" means the eighth anniversary of the Closing Date; *provided* that if such day is not a Business Day, the Maturity Date shall be the Business Day immediately preceding such day.

"Minority Investment" means any person (other than a Subsidiary) in which the Borrower or any Restricted Subsidiary owns capital stock.

"Moody's" means Moody's Investors Service, Inc. and any successor thereto.

"Mortgage" means collectively, the deeds of trust, trust deeds, hypothecs and mortgages creating and evidencing a Lien on a Mortgaged Property made by the Loan Parties in favor or for the benefit of the Collateral Agent on behalf of the Secured Parties in form and substance reasonably satisfactory to the Collateral Agent, and any other mortgages executed and delivered pursuant to Sections 4.01(a)(iv) (if applicable), 6.11 and 6.13.

"Mortgage Policies" has the meaning specified in paragraph (i) of the definition of Collateral and Guarantee Requirement.

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"Mortgaged Properties" has the meaning specified in paragraph (i) of the definition of Collateral and Guarantee Requirement.

"Net Cash Proceeds" means:

- (a) with respect to the Disposition of any asset by the Borrower or any Restricted Subsidiary or any Casualty Event, the excess, if any, of (i) the sum of cash and Cash Equivalents received in connection with such Disposition or Casualty Event (including any cash or Cash Equivalents received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received and, with respect to any Casualty Event, any insurance proceeds or condemnation awards in respect of such Casualty Event actually received by or paid to or for the account of the Borrower or any Restricted Subsidiary) over (ii) the sum of (A) the principal amount, premium or penalty, if any, interest and other amounts on any Indebtedness that is secured by the asset subject to such Disposition or Casualty Event and that is required to be repaid (and is timely repaid) in connection with such Disposition or Casualty Event (other than Indebtedness under the Loan Documents), (B) the out-of-pocket fees and expenses (including attorneys' fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees) actually incurred by the Borrower or such Restricted Subsidiary in connection with such Disposition or Casualty Event, (C) taxes paid or reasonably estimated to be actually payable in connection therewith, and (D) any reserve for adjustment in respect of (x) the sale price of such asset or assets established in accordance with GAAP and (y) any liabilities associated with such asset or assets and retained by the Borrower or any Restricted Subsidiary after such sale or other disposition thereof, including pension and other post-employment benefit liabilities and liabilities related to environmental matters or with respect to any indemnification obligations associated with such transaction and it being understood that "Net Cash Proceeds" shall include (i) any cash or Cash Equivalents received upon the Disposition of any non-cash consideration by the Borrower or any Restricted Subsidiary in any such Disposition and (ii) upon the reversal (without the satisfaction of any applicable liabilities in cash in a corresponding amount) of any reserve described in clause (D) above or if such liabilities have not been satisfied in cash and such reserve is not reversed within three hundred and sixty-five (365) days after such Disposition or Casualty Event, the amount of such reserve; *provided that* (x) no net cash proceeds calculated in accordance with the foregoing realized in a single transaction or series of related transactions shall constitute Net Cash Proceeds unless such net cash proceeds shall exceed \$2,500,000 and (y) no such net cash proceeds shall constitute Net Cash Proceeds under this clause (a) in any fiscal year until the aggregate amount of all such net cash proceeds in such fiscal year shall exceed \$10,000,000 (and thereafter only net cash proceeds in excess of such amount shall

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constitute Net Cash Proceeds under this clause (a)) and (z) net cash proceeds from Scheduled Dispositions shall not constitute Net Cash Proceeds; and

- (b) (i) with respect to the incurrence or issuance of any Indebtedness by the Borrower or any Restricted Subsidiary, the excess, if any, of (x) the sum of the cash received in connection with such incurrence or issuance over (y) the investment banking fees, underwriting discounts, commissions, costs and other out-of-pocket expenses and other customary expenses, incurred by the Borrower or such Restricted Subsidiary in connection with such incurrence or issuance and (ii) with respect to any Permitted Equity Issuance by any direct or indirect parent of the Borrower, the amount of cash from such Permitted Equity Issuance contributed to the capital of the Borrower.

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

"Non-Cash Charges" has the meaning specified in the definition of the term "Consolidated EBITDA".

"Non-Consenting Lender" has the meaning specified in Section 3.07(d).

"Non-Loan Party" means any Subsidiary of the Borrower that is not a Loan Party.

"Non-Loan Party Total Assets" means the total assets of the Non-Loan Parties, as determined in accordance with GAAP in good faith by a Responsible Officer, without intercompany eliminations.

"Nonrenewal Notice Date" has the meaning specified in Section 2.04(b)(iii).

"Not Otherwise Applied" means, with reference to any amount of Net Cash Proceeds of any transaction or event or of Excess Cash Flow or of the Available Amount that is proposed to be applied to a particular use or transaction, that such amount (a) was not required to be applied to prepay the Loans pursuant to Section 2.06(b) or to prepay the "Loans" (as defined in the First Lien Credit Agreement) pursuant to Section 2.06 of the First Lien Credit Agreement, and (b) has not previously been (and is not simultaneously being) applied to anything other than that such particular use or transaction.

"Obligations" means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party or other Subsidiary arising under any Loan Document or otherwise with respect to any Loan, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any other Subsidiary of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding. Without limiting the generality of the foregoing, the Obligations of the Loan Parties under the Loan Documents (and of any of their Subsidiaries to the extent they have obligations under the

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Loan Documents) include (a) the obligation (including guarantee obligations) to pay principal, interest, charges, expenses, fees, Attorney Costs, indemnities and other amounts payable by any Loan Party or any other Subsidiary under any Loan Document and (b) the obligation of any Loan Party or any other Subsidiary to reimburse any amount in respect of any of the foregoing that any Lender, in its sole discretion, may elect to pay or advance on behalf of such Loan Party or such Subsidiary.

"OCP" means OCP TN Holdings Limited, a corporation incorporated under the laws of the Province of Ontario.

"Offer Response Date" has the meaning specified in Section 2.06(b)(ii)(C).

"Offer to Prepay" has the meaning specified in Section 2.06(b)(ii)(C).

"Ontario Securities Act" means the *Securities Act* (Ontario), as amended, and any successor statute thereto and the rules and regulations of the Ontario Securities Commission and the Canadian Securities Administrators promulgated thereunder.

"Organization Documents" means (a) with respect to any corporation, the certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-Canadian jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.

"Other Taxes" has the meaning specified in Section 3.01(b).

"Outstanding Amount" means with respect to the Loans on any date, the outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of Loans, occurring on such date.

"Participant" has the meaning specified in Section 10.07(e).

"Participant Register" has the meaning specified in Section 10.07(e).

"Permitted Acquisition" has the meaning specified in Section 7.02(j).

"Permitted Equity Issuance" means any sale or issuance of any Qualified Equity Interests of Holdings or any direct or indirect parent of Holdings (and, after a Qualifying IPO, of any Intermediate Holding Company), in each case to the extent permitted hereunder.

"Permitted Holders" means each of (i) the Sponsor and (ii) the Management Stockholders.

"Permitted Refinancing" means, with respect to any Person (other than a release of such Person), any modification, refinancing, refunding, renewal or extension of any Indebtedness of such Person; *provided that* (a) the principal amount (or accreted value, if applicable) thereof does

not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded, renewed or extended except by an amount equal to unpaid accrued interest and premium thereon plus other reasonable amounts paid, and fees and expenses reasonably incurred, in connection with such modification, refinancing, refunding, renewal or extension and by an amount equal to any existing commitments unutilized thereunder, (b) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(f), such modification, refinancing, refunding, renewal or extension has a final maturity date equal to or later than the final maturity date of, and has a Weighted Average Life to Maturity equal to or greater than the Weighted Average Life to Maturity of, the Indebtedness being modified, refinanced, refunded, renewed or extended, (c) other than with respect to a Permitted Refinancing in respect of Indebtedness permitted pursuant to Section 7.03(f), at the time thereof, no Event of Default shall have occurred and be continuing, and (d) if such Indebtedness being so modified, refinanced, refunded, renewed or extended is Indebtedness permitted pursuant to Section 7.03 (b) or (c), (i) to the extent such Indebtedness being modified, refinanced, refunded, renewed or extended is subordinated in right of payment to the Obligations, such modification, refinancing, refunding, renewal or extension is subordinated in right of payment to the Obligations on terms at least as favorable to the Lenders as those contained in the documentation governing the Indebtedness being so modified, refinanced, refunded, renewed or extended, (ii) the terms and conditions (including, if applicable, as to collateral but excluding as to subordination, interest rate and redemption premium) of any such modified, refinanced, refunded, renewed or extended Indebtedness, taken as a whole, are not materially less favorable to the Loan Parties or the Lenders than the terms and conditions of the Indebtedness being modified, refinanced, refunded, renewed or extended; *provided* that a certificate of a Responsible Officer delivered to the Administrative Agent at least five Business Days prior to the incurrence of such Indebtedness, together with a reasonably detailed description of the material terms and conditions of such Indebtedness or drafts of the documentation relating thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Administrative Agent notifies the Borrower within such five Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees), (iii) such modification, refinancing, refunding, renewal or extension is incurred by the Person who is the obligor of the Indebtedness being so modified, refinanced, refunded, renewed or extended, and (iv) if such Indebtedness being so modified, refinanced, refunded, renewed or extended is Indebtedness permitted pursuant to Section 7.03(b), such modified, refinanced, refunded, renewed or extended Indebtedness shall be subject to the terms and conditions of the Intercreditor Agreement or any other intercreditor agreement on substantially the same terms.

"Permitted Sale Leaseback" means any Sale Leaseback consummated by the Borrower or any of its Restricted Subsidiaries after the Closing Date, *provided* that any such Sale Leaseback not between (a) a Loan Party and another Loan Party or (b) a Restricted Subsidiary that is not a Loan Party to another Restricted Subsidiary that is not a Loan Party is consummated for fair value as determined at the time of consummation in good faith by (i) the Borrower or such Restricted Subsidiary and (ii) in the case of any Sale Leaseback (or series of related Sales Leasebacks) the aggregate proceeds of which exceed \$5,000,000, the board of directors of the Borrower or such Restricted Subsidiary (which such determination may take into account any retained interest or other Investment of the Borrower or such Restricted Subsidiary in connection with, and any other material economic terms of, such Sale Leaseback).

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

"Post-Acquisition Period" means, with respect to any Permitted Acquisition or the conversion of any Unrestricted Subsidiary into a Restricted Subsidiary, the period beginning on the date such Permitted Acquisition or conversion is consummated and ending on the last day of the sixth full consecutive fiscal quarter immediately following the date on which such Permitted Acquisition or conversion is consummated.

"PPSA" means the *Personal Property Security Act*, R.S.O. 1990, c.P.10, as now and hereafter in effect, or any successor statute, or any similar or equivalent legislation as in effect in any applicable jurisdiction.

"Pro Forma Adjustment" means, for any Test Period that includes all or any part of a fiscal quarter included in any Post-Acquisition Period, with respect to the Acquired EBITDA of the applicable Acquired Entity or Business or Converted Restricted Subsidiary or the Consolidated EBITDA of the Borrower, the pro forma increase or decrease in such Acquired EBITDA or such Consolidated EBITDA, as the case may be, projected by the Borrower in good faith as a result of (a) actions taken during such Post-Acquisition Period for the purposes of realizing reasonably identifiable and factually supportable cost savings or (b) any additional costs incurred during such Post-Acquisition Period, in each case in connection with the combination of the operations of such Acquired Entity or Business or Converted Restricted Subsidiary with the operations of the Borrower and its Restricted Subsidiaries; *provided* that, (i) at the election of the Borrower, such Pro Forma Adjustment shall not be required to be determined for any Acquired Entity or Business or Converted Restricted Subsidiary to the extent the aggregate consideration paid in connection with such acquisition was less than \$5,000,000, and (ii) so long as such actions are taken during such Post-Acquisition Period or such costs are incurred during such Post-Acquisition Period, as applicable, for purposes of projecting such pro forma increase or decrease to such Acquired EBITDA or such Consolidated EBITDA, as the case may be, it may be assumed that such cost savings will be realizable during the entirety of such Test Period, or such additional costs, as applicable, will be incurred during the entirety of such Test Period; *provided further* that any such pro forma increase or decrease to such Acquired EBITDA or such Consolidated EBITDA, as the case may be, shall be without duplication for cost savings or additional costs already included in such Acquired EBITDA or such Consolidated EBITDA, as the case may be, for such Test Period.

"Pro Forma Balance Sheet" has the meaning specified in Section 5.05(a)(ii).

"Pro Forma Basis" and **"Pro Forma Effect"** mean, with respect to compliance with any test hereunder, that (A) to the extent applicable, the Pro Forma Adjustment shall have been made and (B) all Specified Transactions and the following transactions in connection therewith shall be deemed to have occurred as of the first day of the applicable period of measurement (as of the last date in the case of a balance sheet item) in such test: (a) income statement items (whether positive or negative) attributable to the property or Person subject to such Specified Transaction, (i) in the case of a Disposition of all or substantially all Equity Interests in any Subsidiary of the Borrower or any division, product line, or facility used for operations of the Borrower or any of its Subsidiaries, shall be excluded, and (ii) in the case of a Permitted Acquisition or Investment described in the definition of "Specified Transaction", shall be included, (b) any retirement of Indebtedness, and (c) any Indebtedness incurred or assumed by the Borrower or any of its

Restricted Subsidiaries in connection therewith and if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate which is or would be in effect with respect to such Indebtedness as at the relevant date of determination; *provided* that, without limiting the application of the Pro Forma Adjustment pursuant to (A) above, the foregoing pro forma adjustments may be applied to any such test solely to the extent that such adjustments are consistent with the definition of Consolidated EBITDA and give effect to events (including operating expense reductions) that are (as determined by the Borrower in good faith) (i) (x) directly attributable to such transaction, (y) expected to have a continuing impact on the Borrower and its Restricted Subsidiaries and (z) factually supportable or (ii) otherwise consistent with the definition of Pro Forma Adjustment.

"Pro Forma Financial Statements" has the meaning specified in Section 5.05(a)(ii).

"Pro Rata Share" means, with respect to each Lender at any time a fraction (expressed as a percentage, carried out to the ninth decimal place), the numerator of which is the amount of the Commitments of such Lender at such time and the denominator of which is the amount of the Aggregate Commitments at such time; *provided* that if such Commitments have been terminated, then the Pro Rata Share of each Lender shall be determined based on the Pro Rata Share of such Lender immediately prior to such termination and after giving effect to any subsequent assignments made pursuant to the terms hereof.

"Purchase Agreement" means the Purchase Agreement dated as of May 11, 2007, by and between the Seller and the Purchaser.

"Purchased Assets" shall have the meaning set forth in the Purchase Agreement.

"Purchaser" means Apax/TN Holdings LLC, a Delaware limited liability company.

"Qualified Equity Interests" means any Equity Interests that are not Disqualified Equity Interests.

"Qualifying IPO" means the issuance by Holdings, any Intermediate Holding Company, any direct or indirect parent of Holdings or the Borrower of its common Equity Interests in an underwritten primary public offering (other than a public offering pursuant to a registration statement on Form S-8) pursuant to an effective registration statement filed with the SEC in accordance with the *Securities Act* (whether alone or in connection with a secondary public offering) or in a firm commitment underwritten offering (or series of related offerings of securities to the public pursuant to a final prospectus) under the *Ontario Securities Act*.

"Quebec Secured Parties" has the meaning specified in Section 9.14.

"Quebec Security Documents" means any deed of Hypothec, Debenture or Pledge referred to in Section 9.14.

"RBC" means Royal Bank of Canada.

"Refinanced Term Loans" has the meaning specified in Section 10.01.

"Register" has the meaning specified in Section 10.07(d).

"Rejection Notice" has the meaning specified in Section 2.06(b)(v).

"Replacement Term Loans" has the meaning specified in Section 10.01.

"Required Lenders" means, as of any date of determination, Lenders having more than 50% of the sum of the (a) Total Outstandings and (b) aggregate unused Commitments; *provided* that the unused Commitment of, and the portion of the Total Outstandings held or deemed held by, any Defaulting Lender or the Borrower or any Affiliate thereof shall be excluded for purposes of making a determination of Required Lenders.

"Responsible Officer" means the chief executive officer, president, vice president, chief financial officer, treasurer or assistant treasurer or other similar officer of a Loan Party and, as to any document delivered on the Closing Date, any secretary or assistant secretary of a Loan Party. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest in the Borrower or any Restricted Subsidiary or the Shareholder Subordinated Note, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, defeasance, acquisition, cancellation or termination of any such Equity Interest or the Shareholder Subordinated Note, or on account of any return of capital to the holders of Equity Interests of the Borrower.

"Restricted Subsidiary" means any Subsidiary of the Borrower other than an Unrestricted Subsidiary.

"Retained Declined Proceeds" has the meaning specified in Section 2.06(b)(v).

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto.

"Sale Leaseback" means any transaction or series of related transactions pursuant to which the Borrower or any of its Restricted Subsidiaries (a) sells, transfers or otherwise disposes of any property, real or personal, whether now owned or hereafter acquired, and (b) as part of such transaction, thereafter rents or leases such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold, transferred or disposed.

"Scheduled Disposition" has the meaning specified in Section 7.05(k).

"SEC" means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.

"Secured Parties" means, collectively, the Administrative Agent, the Collateral Agent, the Lenders, the Supplemental Administrative Agent and each co-agent or sub-agent appointed by the Administrative Agent from time to time pursuant to Section 9.01(c).

"Securities Act" means the *Securities Act* of 1933.

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"Security Agreement" means, collectively, the Security Agreement executed by the Loan Parties substantially in the form of Exhibit F, together with each other Security Agreement Supplement executed and delivered pursuant to Section 6.11.

"Security Agreement Supplement" has the meaning specified in the Security Agreement.

"Seller" means Thomson Canada Limited, a corporation incorporated under the laws of Ontario.

"Senior Secured Incurrence Test" means, with respect to the most recent Test Period, the Senior Secured Leverage Ratio (calculated on a Pro Forma Basis) shall be no greater than 8.00 to 1.00.

"Senior Secured Leverage Ratio" means, with respect to any Test Period, the ratio of (a) Consolidated Senior Secured Debt as of the last day of such Test Period to (b) Consolidated EBITDA of the Borrower for such Test Period.

"Shareholder Subordinated Note" means the subordinated promissory note dated July 5, 2007 in an aggregate principal amount of C\$72,981,055 issued by the Borrower and payable to Holdings without any amendment thereto other than in accordance with Section 17 thereof.

"Sold Entity or Business" has the meaning specified in the definition of the term "Consolidated EBITDA".

"Solvent" and **"Solvency"** mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property (for the avoidance of doubt, calculated to include goodwill and other intangibles) of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay such debts and liabilities as they mature and (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person's property would constitute an unreasonably small capital. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"SPC" has the meaning specified in Section 10.07(h).

"Specified Transaction" means any Investment, Disposition, incurrence or repayment of Indebtedness, Restricted Payment, Subsidiary designation, Incremental Term Loan or Additional Incremental Term Loan that by the terms of this Agreement requires such test to be calculated on a "Pro Forma Basis" or after giving "Pro Forma Effect".

"Sponsor" means any of Apax Partners, L.P. and OMERS Administration Corporation and their respective Affiliates and funds or partnerships managed by them or any of their Affiliates, but not including, however, any of their portfolio companies.

"Sponsor Management Agreement" means the management agreement between certain of the management companies associated with the Sponsor or its advisors and the Borrower.

"Sponsor Termination Fees" means the one time payment under the Sponsor Management Agreement of a termination fee to one or more of the Sponsor and its Affiliates in the event of either a Change of Control or the completion of a Qualifying IPO.

"Subsidiary" of a Person means a corporation, partnership, joint venture, limited liability company or other business entity of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references herein to a "Subsidiary" or to "Subsidiaries" shall refer to a Subsidiary or Subsidiaries of the Borrower.

"Subsidiary Guarantor" means, collectively, the Subsidiaries of the Borrower that are Guarantors.

"Successor Borrower" has the meaning specified in Section 7.04(d).

"Supplemental Administrative Agent" has the meaning specified in Section 9.13(a) and "Supplemental Administrative Agents" shall have the corresponding meaning.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a **"Master Agreement"**), including any such obligations or liabilities under any Master Agreement.

"Swap Termination Value" means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined by the "Hedge Bank" (as defined in the First Lien Credit Agreement) in accordance with the terms thereof and in accordance with customary methods for calculating mark-to-market values under similar arrangements by such Hedge Bank.

"Tax Act" means the *Income Tax Act* (Canada), as amended from time to time, and regulations promulgated thereunder.

"Taxes" has the meaning specified in Section 3.01(a).

"Term Note" means a promissory note of the Borrower payable to any Lender or its registered assigns, in substantially the form of Exhibit B hereto, evidencing the aggregate Indebtedness of the Borrower to such Lender resulting from the Loans made by such Lender.

"Test Period" in effect at any time shall mean the most recent period of four consecutive fiscal quarters of the Borrower ended on or prior to such time (taken as one accounting period) in respect of which financial statements for each quarter or fiscal year in such period have been or are required to be delivered pursuant to Section 6.01(a) or (b); *provided that*, prior to the first date that financial statements have been or are required to be delivered pursuant to Section 6.01(a) or (b), the Test Period in effect shall be the period of four consecutive fiscal quarters ended March 31, 2007. A Test Period may be designated by reference to the last day thereof (i.e., the "March 31, 2007 Test Period" refers to the period of four consecutive fiscal quarters of the Borrower ended March 31, 2007), and a Test Period shall be deemed to end on the last day thereof.

"Threshold Amount" means \$11,000,000.

"Total Assets" means the total assets of the Borrower and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent balance sheet of the Borrower delivered pursuant to Section 6.01(a) or (b) or, for the period prior to the time any such statements are so delivered pursuant to Section 6.01(a) or (b), the pro forma financial statements of the Borrower giving effect to the Transaction contained in the Confidential Information Memorandum dated June, 2007 relating to the credit facilities described in this Agreement.

"Total Leverage Ratio" means, with respect to any Test Period, the ratio of (a) Consolidated Total Debt as of the last day of such Test Period to (b) Consolidated EBITDA of the Borrower for such Test Period.

"Total Outstandings" means the aggregate Outstanding Amount of all Loans.

"Transaction" means, collectively, (a) the Equity Contribution, (b) the Acquisition, (c) the funding of the Loans on the Closing Date, (d) the funding of the First Lien Loans on the Closing Date, (e) the consummation of any other transactions in connection with the foregoing, and (f) the payment of the fees and expenses incurred in connection with any of the foregoing.

"Transaction Expenses" means any fees or expenses incurred or paid by Holdings, the Borrower, or any Restricted Subsidiary in connection with the Transaction, this Agreement and the other Loan Documents and the transactions contemplated hereby and thereby.

"Transferred Company" means Groupe Modulo Inc., a corporation incorporated under the laws of Canada.

"Type" means, with respect to a Loan, its character as a Base Rate Loan or a Eurocurrency Rate Loan.

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"Unaudited Financial Statements" means the unaudited combined balance sheets and related statements of income and cash flows of the Business, for each subsequent fiscal quarter ended after December 31, 2006 and at least sixty (60) days before the Closing Date, previously delivered to the Administrative Agent.

"Uniform Commercial Code" means the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or similar code or statute) of another jurisdiction to the extent it may be required to apply to any item of Collateral.

"United States" and **"U.S."** mean the United States of America.

"Unrestricted Subsidiary" means (i) each Subsidiary of the Borrower listed on Schedule 1.01B, and (ii) any Subsidiary of the Borrower designated by the board of directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 6.14 subsequent to the date hereof and any Subsidiary of an Unrestricted Subsidiary.

"U.S. Base Rate" means the rate of interest per annum that RBC announces from time to time as its base lending rate for commercial loans in Dollars in the U.S., as in effect from time to time. The U.S. Base Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. RBC or any other Lender may make commercial loans or other loans at rates of interest at, above or below the U.S. Base Rate.

"U.S. Subsidiary" means any Subsidiary that is organized under the laws of the United States of America, any state thereof or the District of Columbia.

"USA PATRIOT Act" means *The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)), as amended or modified from time to time.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (ii) the then outstanding principal amount of such Indebtedness.

"wholly owned" means, with respect to a Subsidiary of a Person, a Subsidiary of such Person all of the outstanding Equity Interests of which (other than (x) director's qualifying shares and (y) shares issued to foreign nationals to the extent required by applicable Law) are owned by such Person and/or by one or more wholly owned Subsidiaries of such Person.

"Withholding Tax Period" has the meaning specified in Section 2.06(b)(vii).

"WURA" means the *Winding Up and Restructuring Act*, (Canada) as now and hereafter in effect, or any successor statute.

Section 1.02 Other Interpretive Provisions.

With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:

- (a) The meanings of defined terms are equally applicable to the singular and plural forms of the defined terms.
- (b)
 - (i) The words "herein", "hereto", "hereof" and "hereunder" and words of similar import when used in any Loan Document shall refer to such Loan Document as a whole and not to any particular provision thereof.
 - (ii) Article, Section, Exhibit and Schedule references are to the Loan Document in which such reference appears.
 - (iii) The term "including" is by way of example and not limitation.
 - (iv) The term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form.
- (c) In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including"; the words "to" and "until" each mean "to but excluding"; and the word "through" means "to and including".
- (d) Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.

Section 1.03 Accounting Terms.

- (a) All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP, applied in a manner consistent with that used in preparing the Audited Financial Statements, except as otherwise specifically prescribed herein.
- (b) Notwithstanding anything to the contrary herein, for purposes of determining compliance with any test contained in this Agreement with respect to any period during which any Specified Transaction occurs, the Adjusted Senior Secured Leverage Ratio, the Total Leverage Ratio and Senior Secured Leverage Ratio shall be calculated with respect to such period and such Specified Transaction on a Pro Forma Basis.

Section 1.04 Rounding.

Any financial ratios required to be satisfied in order for a specific action to be permitted under this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number

Section 1.05 References to Agreements, Laws, Etc.

Unless otherwise expressly provided herein, (a) references to Organization Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, extensions, supplements and other modifications thereto, but only to the extent that such amendments, restatements, extensions, supplements and other modifications are permitted by any Loan Document; and (b) references to any Law shall include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

Section 1.06 Times of Day.

Unless otherwise specified, all references herein to times of day shall be references to Eastern time (daylight or standard, as applicable).

Section 1.07 Timing of Payment or Performance.

When the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment (other than as described in the definition of Interest Period) or performance shall extend to the immediately succeeding Business Day.

Section 1.08 Currency Equivalents Generally.

- (a) Any amount specified in this Agreement (other than in Article II, Article IX and Article X or as set forth in paragraph (b) of this Section) or any of the other Loan Documents to be in Dollars shall also include the equivalent of such amount in any currency other than Dollars, such equivalent amount to be determined at the rate of exchange quoted by the Reuters World Currency Page for the applicable currency at 11:00 a.m. (London time) on such day (or, in the event such rate does not appear on any Reuters World Currency Page, by reference to such other publicly available service for displaying exchange rates as may be agreed upon by the Administrative Agent and the Borrower, or, in the absence of such agreement, such rate shall instead be the arithmetic average of the spot rates of exchange of the Administrative Agent in the market where its foreign currency exchange operations in respect of such currency are then being conducted, at or about 10:00 a.m. (New York City time) on such date for the purchase of Dollars for delivery two Business Days later). Notwithstanding the foregoing, for purposes of determining compliance with Sections 7.01, 7.02 and 7.03 with respect to any amount of

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Indebtedness or Investment in a currency other than Dollars, no Default shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Indebtedness or Investment is incurred; *provided* that, for the avoidance of doubt, the foregoing provisions of this Section 1.08 shall otherwise apply to such Sections, including with respect to determining whether any Indebtedness or Investment may be incurred at any time under such Sections.

- (b) For purposes of determining compliance under Sections 7.02, 7.05 and 7.06, any amount in a currency other than Dollars will be converted to Dollars in a manner consistent with that used in calculating net income in the Borrower's annual financial statements delivered pursuant to Section 6.01(a); *provided, however*, that the foregoing shall not be deemed to apply to the determination of any amount of Indebtedness.

ARTICLE II THE COMMITMENTS AND BORROWINGS

Section 2.01 The Loans.

Subject to the terms and conditions set forth herein, each Lender severally agrees to make to the Borrower a single loan denominated in Dollars in a principal amount equal to such Lender's Commitment on the Closing Date. Amounts borrowed under this Section 2.01 and repaid or prepaid may not be reborrowed. Loans may be Base Rate Loans or Eurocurrency Rate Loans, as further provided herein. In order to facilitate the syndication of the Commitments, the Borrower shall not be permitted to request Eurocurrency Rate Loans until the earlier of (i) 30 days from the date hereof; and (ii) the date otherwise agreed by the Administrative Agent.

Section 2.02 Borrowings, Conversions and Continuations of Loans.

- (a) Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Eurocurrency Rate Loans shall be made upon the Borrower's irrevocable notice to the Administrative Agent, which may be given by telephone. Each such notice must be received by the Administrative Agent not later than 12:00 noon (New York, New York time) (i) three (3) Business Days prior to the requested date of any Borrowing or continuation of Eurocurrency Rate Loans or any conversion of Base Rate Loans to Eurocurrency Rate Loans, and (ii) one (1) Business Day before the requested date of any Borrowing of Base Rate Loans or any conversion of Eurocurrency Rate Loans to Base Rate Loans. Each telephonic notice by the Borrower pursuant to this Section 2.02(a) must be confirmed promptly by delivery to the Administrative Agent of a written Committed Loan Notice, appropriately completed and signed by a Responsible Officer of the Borrower. Each Borrowing of, conversion to or continuation of Eurocurrency Rate Loans shall be in a principal amount of \$3,000,000 or a whole multiple of \$500,000 in excess thereof. Except as provided in Sections 2.04(c) and 2.05(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof. Each

Committed Loan Notice (whether telephonic or written) shall specify (i) whether the Borrower is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Eurocurrency Rate Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower fails to specify a Type of Loan in a Committed Loan Notice or fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as, or converted to, Base Rate Loans. Any such automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurocurrency Rate Loans. If the Borrower requests a Borrowing of, conversion to, or continuation of Eurocurrency Rate Loans in any such Committed Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one (1) month. For the avoidance of doubt, the Borrower and Lenders acknowledge and agree that any conversion or continuation of an existing Loan shall be deemed to be a continuation of that Loan with a converted interest rate methodology and not a new Loan.

- (b) Following receipt of a Committed Loan Notice, the Administrative Agent shall promptly notify each Lender of the amount of its Pro Rata Share of the Loans, and if no timely notice of a conversion or continuation is provided by the Borrower, the Administrative Agent shall notify each Lender of the details of any automatic conversion to Base Rate Loans or continuation described in Section 2.02(a). In the case of each Borrowing, each Lender shall make (or cause its Applicable Lending Office to make) the amount of its Loan available to the Administrative Agent in immediately available funds at the Administrative Agent's Office not later than 1:00 p.m. on the Business Day specified in the applicable Committed Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02 (and, if such Borrowing is the initial Borrowing, Section 4.01), the Administrative Agent shall make all funds so received available to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the account of the Borrower on the books of the Administrative Agent with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Borrower.
- (c) Except as otherwise provided herein, a Eurocurrency Rate Loan may be continued or converted only on the last day of an Interest Period for such Eurocurrency Rate Loan unless the Borrower pays the amount due, if any, under Section 3.05 in connection therewith. During the existence of an Event of Default, the Administrative Agent or the Required Lenders may require that no Loans may be converted to or continued as Eurocurrency Rate Loans.

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- (d) The Administrative Agent shall promptly notify the Borrower and the Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate Loans upon determination of such interest rate. The determination of the Eurocurrency Rate by the Administrative Agent shall be conclusive in the absence of manifest error.
- (e) After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten (10) Interest Periods in effect.

Section 2.03 [Reserved]

Section 2.04 [Reserved]

Section 2.05 [Reserved]

Section 2.06 Prepayments and Offers to Prepay.

(a) *Optional Prepayments.*

- (i) The Borrower may, subject to the last sentence hereof, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty; *provided* that (1) such notice must be received by the Administrative Agent not later than 12:00 noon (New York, New York time) (A) two (2) Business Days prior to any date of prepayment of Eurocurrency Rate Loans and (B) on the date of prepayment of Base Rate Loans; (2) any prepayment of Eurocurrency Rate Loans shall be in a principal amount of \$3,000,000 or a whole multiple of \$500,000 in excess thereof; and (3) any prepayment of Base Rate Loans shall be in a principal amount of \$1,000,000 or a whole multiple of \$100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Loans to be prepaid. The Administrative Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's Pro Rata Share of such prepayment. If such notice is given by the Borrower, the Borrower shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurocurrency Rate Loan shall be accompanied by all accrued interest thereon, together with any additional amounts required pursuant to Section 3.05. Notwithstanding the foregoing, each prepayment of the Loans pursuant to this Section 2.06(a) shall be applied as directed by the Borrower and shall be paid to the Lenders in accordance with their respective Pro Rata Shares. Notwithstanding the foregoing, each prepayment of the Loans in accordance with this Section 2.06(a) shall be subject to the

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payment of a prepayment premium in an amount equal to (a) in the case of a prepayment made on or before the first anniversary of the Closing Date, 2.0% of the aggregate principal amount of the Loans that are so prepaid, (b) in the case of a prepayment made after the first anniversary of the Closing Date and on or before the second anniversary of the Closing Date, 1.0% of the aggregate principal amount of the Loans that are so prepaid and (c) in the case of any prepayment made after the second anniversary of the Closing Date, zero.

- (ii) Notwithstanding anything to the contrary contained in this Agreement, the Borrower may rescind any notice of prepayment under Section 2.06(a)(i) if such prepayment would have resulted from a refinancing of all of the Loans, which refinancing shall not be consummated or shall otherwise be delayed.
- (b) *Mandatory Prepayments and Offers to Prepay.*
- (i) **[Reserved]**
 - (ii) (A) If (x) the Borrower or any Restricted Subsidiary Disposes of any property or assets (other than any Disposition of any property or assets permitted by Section 7.05(a), (b), (c), (d) (to the extent constituting a Disposition to a Loan Party), (e), (g), (h), (m) or (o)) or (y) any Casualty Event occurs, which in the aggregate results in the realization or receipt by the Borrower or such Restricted Subsidiary of Net Cash Proceeds, the Borrower shall make an Offer to Prepay, in accordance with Section 2.06(b)(ii)(C), an aggregate principal amount of Loans equal to 100% (such percentage as it may be reduced as described below, the "Asset Percentage") of all such Net Cash Proceeds realized or received; *provided* that no such Offer to Prepay shall be required pursuant to this Section 2.06(b)(ii)(A) with respect to such portion of such Net Cash Proceeds that the Borrower shall have, on or prior to such date, given written notice to the Administrative Agent of its intent to reinvest in accordance with Section 2.06(b)(ii)(B) (which notice may only be provided if no Event of Default has occurred and is then continuing); *provided* that the Asset Percentage shall be 50% if the Total Leverage Ratio for the Test Period was less than or equal to 5.00:1.00;
 - (B) With respect to any Net Cash Proceeds realized or received with respect to any Disposition (other than any Disposition specifically excluded from the application of Section 2.06(b)(ii)(A)) or any Casualty Event, at the option of the Borrower, the Borrower may reinvest all or any portion of such Net Cash Proceeds in assets useful for its business

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within (x) fifteen (15) months following receipt of such Net Cash Proceeds or (y) if the Borrower enters into a legally binding commitment to reinvest such Net Cash Proceeds within fifteen (15) months following receipt thereof, within the later of (1) fifteen (15) months following receipt thereof or (2) one hundred and eighty (180) days of the date of such legally binding commitment; *provided* that (i) so long as an Event of Default shall have occurred and be continuing, the Borrower shall not be permitted to make any such reinvestments (other than pursuant to a legally binding commitment that the Borrower entered into at a time when no Event of Default is continuing) and (ii) if any Net Cash Proceeds are not so reinvested by the deadline specified in clause (x) or (y) above, as applicable, or if any such Net Cash Proceeds are no longer intended to be or cannot be so reinvested at any time after delivery of a notice of reinvestment election, an amount equal to the Asset Percentage of any such Net Cash Proceeds shall be applied, in accordance with Section 2.06(b)(ii)(C), to the prepayment of the Loans as set forth in this Section 2.06.

- (C) On each occasion that the Borrower must make an Offer to Prepay the Loans pursuant to this Section 2.06(b)(ii), the Borrower shall, within five Business Days after the date of realization or receipt of such Net Cash Proceeds (or, in the case of prepayments required pursuant to Section 2.06(b)(ii)(B), within five Business Days of the deadline specified in clause (x) or (y) thereof, as applicable, or of the date the Borrower reasonably determines that such Net Cash Proceeds are no longer intended to be or cannot be so reinvested, as the case may be), make an offer to prepay, in accordance with Section 2.06(b)(v) below, the principal amount of Loans in an amount equal to the Asset Percentage of such Net Cash Proceeds realized or received (the "Offer to Prepay"). The Administrative Agent shall give each Lender a copy of the Offer to Prepay on the next Business Day following receipt of same. Each Lender shall have the right to accept or decline the Offer to Prepay by providing written notice to the Administrative Agent prior to the thirtieth day following receipt of same (the "Offer Response Date"). The failure of a Lender to notify the Administrative Agent of its acceptance prior to the Offer Response Date shall be deemed to be a rejection of the Offer to Prepay. The Administrative Agent shall promptly, and in any event within three Business Days of the Offer Response Date, notify the Borrower of which Lenders have accepted the Offer to Prepay prior to the Offer Response Date, and such Lenders shall be entitled to the prepayment

within three Business Days of the Borrower's receipt of such notice from the Administrative Agent.

- (iii) If the Borrower or any Restricted Subsidiary incurs or issues any Indebtedness not expressly permitted to be incurred or issued pursuant to Section 7.03, the Borrower shall cause to be prepaid an aggregate principal amount of Loans equal to 100% of all Net Cash Proceeds received therefrom on or prior to the date which is five (5) Business Days after the receipt of such Net Cash Proceeds. Each prepayment of the Loans in accordance with this Section 2.06(b)(iii) shall be subject to the payment of a prepayment premium in an amount equal to (a) in the case of a prepayment made on or before the first anniversary of the Closing Date, 2.0% of the aggregate principal amount of the Loans that are so prepaid, (b) in the case of a prepayment made after the first anniversary of the Closing Date and on or before the second anniversary of the Closing Date, 1.0% of the aggregate principal amount of the Loans that are so prepaid and (c) in the case of any prepayment made after the second anniversary of the Closing Date, zero.
- (iv) (X) Each prepayment of Loans pursuant to this Section 2.06(b) shall be applied as directed by the Borrower; and (Y) each such prepayment shall be paid to the Lenders in accordance with their respective Pro Rata Shares subject to clause (vi) of this Section 2.06(b).
- (v) The Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Loans required to be made pursuant to clause (iii) of this Section 2.06(b) at least three (3) Business Days prior to the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount of such prepayment. The Administrative Agent will promptly notify each Lender of the contents of the Borrower's prepayment notice and of such Lender's Pro Rata Share of the prepayment. Each Lender may reject all or a portion of its Pro Rata Share of any mandatory prepayment (such declined amounts, the "**Declined Proceeds**") of Loans required to be made pursuant to clause (iii) of this Section 2.06(b) by providing written notice (each, a "**Rejection Notice**") to the Administrative Agent and the Borrower no later than 5:00 p.m. (New York time) one Business Day after the date of such Lender's receipt of notice from the Administrative Agent regarding such prepayment. Each Rejection Notice from a given Lender shall specify the principal amount of the mandatory prepayment of Loans to be rejected by such Lender. If a Lender fails to deliver a Rejection Notice to the Administrative Agent within the time frame specified above or such Rejection Notice fails to specify the principal amount of the Loans to be rejected, any such failure will

be deemed an acceptance of the total amount of such mandatory repayment of Loans. Any Declined Proceeds shall be retained by the Borrower ("**Retained Declined Proceeds**").

- (vi) Notwithstanding any other provisions of this Section 2.06(b), (i) to the extent that any of or all the Net Cash Proceeds of any Disposition by a Foreign Subsidiary giving rise to an Offer to Prepay pursuant to Section 2.06(b)(ii) (a "**Foreign Disposition**") or the Net Cash Proceeds of any Casualty Event from a Foreign Subsidiary (a "**Foreign Casualty Event**") are prohibited or delayed by applicable local law from being repatriated to Canada, the Borrower shall not be required to make an Offer to Prepay at the time provided in Section 2.06(b)(ii). Instead, such amounts may be retained by the applicable Foreign Subsidiary so long, but only so long, as the applicable local law will not permit repatriation to Canada (the Borrower hereby agreeing to cause the applicable Foreign Subsidiary to promptly take all actions reasonably required by the applicable local law to permit such repatriation), and once such repatriation of any of such affected Net Cash Proceeds is permitted under the applicable local law, such repatriation will be promptly effected and such repatriated Net Cash Proceeds will be promptly (and in any event not later than three Business Days after such repatriation) applied (net of additional taxes payable or reserved against as a result thereof) to the repayment of the Loans pursuant to this Section 2.06(b) to the extent provided herein and (ii) to the extent that the Borrower has determined in good faith that repatriation of any of or all the Net Cash Proceeds of any Foreign Disposition or any Foreign Casualty Event would have a material adverse tax cost consequence (taking into account any foreign tax credit or benefit received in connection with such repatriation) with respect to such Net Cash Proceeds, the Net Cash Proceeds so affected may be retained by the applicable Foreign Subsidiary, provided that, in the case of this clause (ii), on or before the date on which any Net Cash Proceeds so retained would otherwise have been required to be applied to reinvestments or prepayments pursuant to this Section 2.06(b), (x) the Borrower applies an amount equal to such Net Cash Proceeds to such reinvestments or prepayments as if such Net Cash Proceeds had been received by the Borrower rather than such Foreign Subsidiary, less the amount of additional taxes that would have been payable or reserved against if such Net Cash Proceeds had been repatriated (or, if less, the Net Cash Proceeds that would be calculated if received by such Foreign Subsidiary) or (y) such Net Cash Proceeds are applied to the repayment of Indebtedness of a Foreign Subsidiary.
- (vii) Notwithstanding any other provision of this Agreement, during the period commencing on the Closing Date and ending on the date

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that is five years and one day after the Closing Date (the "Withholding Tax Period"), mandatory prepayments required to be applied to outstanding Loans pursuant to Section 2.06(b)(iii) and Section 2.06(b)(vi) shall not be required to be applied to any of such loans if, after giving effect to such application, the aggregate principal amount of Loans so repaid exceeds 25% of the aggregate principal amount of the Loans made on the Closing Date (the "Excess Prepayment Amount"); *provided* that on the date immediately following the end of the Withholding Tax Period, the Borrower shall prepay a principal amount of the Loans that is equal to the Excess Prepayment Amount. The mandatory prepayments with respect to any Incremental Term Loans or any Additional Incremental Term Loans shall also be subject to the limitations set forth in this paragraph, *provided* that, for purposes of calculating the amount of mandatory prepayments for purposes of complying with such limitations, each Incremental Term Loan or Additional Incremental Term Loan shall be treated as a separate loan (and shall not be aggregated with the Loans or any other loans), and the Withholding Tax Period will commence upon the borrowing of such Incremental Term Loans. The above-described mandatory prepayments shall be applied to the Loans as directed by the Borrower.

- (c) *Interest, Funding Losses, Etc.* All prepayments under this Section 2.06 shall be accompanied by all accrued interest thereon, together with, in the case of any such prepayment of a Eurocurrency Rate Loan on a date other than the last day of an Interest Period therefor, any amounts owing in respect of such Eurocurrency Rate Loan pursuant to Section 3.05.
- (d) *Prepayments Subject to First Lien Credit Agreement.* Notwithstanding anything to the contrary contained in Section 2.06(b), the amount of any prepayment required under Section 2.06(b)(ii) and (iii) shall be reduced by the aggregate principal amount of the loans prepaid under such corresponding Sections 2.06(b)(ii) and (iii), respectively, of the First Lien Credit Agreement.

Notwithstanding any of the other provisions of this Section 2.06, so long as no Event of Default shall have occurred and be continuing, if any prepayment of Eurocurrency Rate Loans is required to be made under this Section 2.06, prior to the last day of the Interest Period therefor, in lieu of making any payment pursuant to this Section 2.06 in respect of any such Eurocurrency Rate Loan prior to the last day of the Interest Period therefor, the Borrower may, in its sole discretion, deposit with the Administrative Agent the amount of any such prepayment otherwise required to be made hereunder until the last day of such Interest Period, at which time the Administrative Agent shall be authorized (without any further action by or notice to or from the Borrower or any other Loan Party) to apply such amount to the prepayment of such Loans in accordance with this Section 2.06. Such deposit shall constitute cash collateral for the Eurocurrency Rate Loans to be so prepaid, provided that the Borrower may at any time direct

that such deposit be applied to make the applicable payment required pursuant to this Section 2.06.

Section 2.07 Termination or Reduction of Commitments.

- (a) *Optional.* The Borrower may, upon written notice to the Administrative Agent, terminate the unused Commitments, or from time to time permanently reduce the unused Commitments; *provided that* (i) any such notice shall be received by the Administrative Agent three (3) Business Days prior to the date of termination or reduction, and (ii) any such partial reduction shall be in an aggregate amount of \$1,000,000 or any whole multiple of \$100,000 in excess thereof. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice of termination of the Commitments if such termination would have resulted from a refinancing of all of the Loans, which refinancing shall not be consummated or otherwise shall be delayed.
- (b) *Mandatory.* The Commitment of each Lender shall be automatically and permanently reduced to \$0 upon the making of such Lender's Loans pursuant to Section 2.01.
- (c) *Application of Commitment Reductions; Payment of Fees.* The Administrative Agent will promptly notify the Lenders of any termination or reduction of the unused Commitments under this Section 2.07. Upon any reduction of unused Commitments, the Commitment of each Lender shall be reduced by such Lender's Pro Rata Share of the amount by which such Commitments are reduced (other than the termination of the Commitment of any Lender as provided in Section 3.07).

Section 2.08 Repayment of Loans.

- (a) The Borrower shall, subject to Section 2.06(b)(vii), repay to the Administrative Agent for the ratable account of the Lenders, on the Maturity Date, the aggregate principal amount of all Loans outstanding on such date.
- (b) For the avoidance of doubt, all Loans shall be repaid, whether pursuant to this Section 2.08 or otherwise, in the currency in which they were made.

Section 2.09 Interest.

- (a) Subject to the provisions of Section 2.09(b), (i) each Eurocurrency Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Eurocurrency Rate for such Interest Period plus the Applicable Rate; and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate.

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- (b) The Borrower shall pay interest on past due amounts hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.
- (c) Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.
- (d) Interest on each Loan shall be payable in the currency in which each Loan was made.

Section 2.10 Fees.

The Borrower shall pay to the Agents such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as expressly agreed between the Borrower and the applicable Agent).

Section 2.11 Computation of Interest and Fees.

All computations of interest for Base Rate Loans when the Base Rate is determined by the U.S. Base Rate shall be made on the basis of a year of three hundred and sixty-five (365) days or three hundred and sixty-six (366) days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a three hundred and sixty (360) day year and actual days elapsed. Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid; *provided* that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.13(a), bear interest for one (1) day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.

For purposes of the *Interest Act* (Canada), whenever any interest or fee under this Agreement is calculated using a rate based on a number of days less than a full year, such rate determined pursuant to such calculation, when expressed as an annual rate, is equivalent to (x) the applicable rate based on a year of 360, 365 or 366 days, as the case may be, (y) multiplied by the actual number of days in the calendar year in which the period for which such interest or fee is payable (or compounded) ends, and (z) divided by the number of days based on which such rate is calculated. The principle of deemed reinvestment of interest does not apply to any interest calculation under this Agreement. The rates of interest stipulated in this Agreement are intended to be nominal rates and not effective rates or yields.

Section 2.12 Evidence of Indebtedness.

- (a) The Borrowings made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and evidenced by one or more entries in the Register maintained by the Administrative Agent, acting solely for purposes of Treasury Regulation Section 5f.103-1(c), as agent for the Borrower, in each case in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be prima facie evidence absent manifest error of the amount of the Loans made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Term Note payable to such Lender, which shall evidence such Lender's Loans in addition to such accounts or records. Each Lender may attach schedules to its Term Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.
- (b) [Reserved]
- (c) Entries made in good faith by the Administrative Agent in the Register pursuant to Section 2.12(a), and by each Lender in its account or accounts pursuant to Section 2.12(a), shall be prima facie evidence of the amount of principal and interest due and payable or to become due and payable from the Borrower to, in the case of the Register, each Lender and, in the case of such account or accounts, such Lender, under this Agreement and the other Loan Documents, absent manifest error; provided that the failure of the Administrative Agent or such Lender to make an entry, or any finding that an entry is incorrect, in the Register or such account or accounts shall not limit or otherwise affect the obligations of the Borrower under this Agreement and the other Loan Documents.

Section 2.13 Payments Generally.

- (a) All payments to be made by the Borrower shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in immediately available funds not later than 3:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Pro Rata Share (or other

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applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender's Applicable Lending Office. All payments received by the Administrative Agent after 3:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue.

- (b) If any payment to be made by the Borrower shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be; *provided* that, if such extension would cause payment of interest on or principal of Eurocurrency Rate Loans to be made in the next succeeding calendar month, such payment shall be made on the immediately preceding Business Day.
- (c) Unless the Borrower or any Lender has notified the Administrative Agent, prior to the date any payment is required to be made by it to the Administrative Agent hereunder, that the Borrower or such Lender, as the case may be, will not make such payment, the Administrative Agent may assume that the Borrower or such Lender, as the case may be, has timely made such payment and may (but shall not be so required to), in reliance thereon, make available a corresponding amount to the Person entitled thereto. If and to the extent that such payment was not in fact made to the Administrative Agent in immediately available funds, then:
 - (i) if the Borrower failed to make such payment, each Lender shall forthwith on demand repay to the Administrative Agent the portion of such assumed payment that was made available to such Lender in immediately available funds, together with interest thereon in respect of each day from and including the date such amount was made available by the Administrative Agent to such Lender to the date such amount is repaid to the Administrative Agent in immediately available funds at the Federal Funds Rate; and
 - (ii) if any Lender failed to make such payment, such Lender shall forthwith on demand pay to the Administrative Agent the amount thereof in immediately available funds, together with interest thereon for the period from the date such amount was made available by the Administrative Agent to the Borrower to the date such amount is recovered by the Administrative Agent (the "Compensation Period") at a rate per annum equal to the Federal Funds Rate. When such Lender makes payment to the Administrative Agent (together with all accrued interest thereon), then such payment amount (excluding the amount of any interest which may have accrued and been paid in respect of such late payment) shall constitute such Lender's Loan included in the applicable Borrowing. Nothing herein shall be deemed to relieve any Lender from its obligation to fulfill its Commitment or to prejudice any rights which the Administrative Agent or the

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Borrower may have against any Lender as a result of any default by such Lender hereunder.

A notice of the Administrative Agent to any Lender or the Borrower with respect to any amount owing under this Section 2.13(c) shall be conclusive, absent manifest error.

- (d) If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Borrowing set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.
- (e) The obligations of the Lenders hereunder to make Loans are several and not joint. The failure of any Lender to make any Loan on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan.
- (f) Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.
- (g) Whenever any payment received by the Administrative Agent under this Agreement or any of the other Loan Documents is insufficient to pay in full all amounts due and payable to the Administrative Agent and the Lenders under or in respect of this Agreement and the other Loan Documents on any date, such payment shall be distributed by the Administrative Agent and applied by the Administrative Agent and the Lenders in the order of priority set forth in Section 8.04. If the Administrative Agent receives funds for application to the Obligations of the Loan Parties under or in respect of the Loan Documents under circumstances for which the Loan Documents do not specify the manner in which such funds are to be applied, the Administrative Agent may, but shall not be obligated to, elect to distribute such funds to each of the Lenders in accordance with such Lender's Pro Rata Share of the sum of the Outstanding Amount of all Loans outstanding at such time, in repayment or prepayment of such of the outstanding Loans or other Obligations then owing to such Lender.

Section 2.14 Sharing of Payments.

If, other than as expressly provided elsewhere herein, any Lender shall obtain on account of the Loans made by it any payment (whether voluntary, involuntary, through the exercise of any right of setoff, or otherwise) in excess of its ratable share (or other share contemplated hereunder) thereof, such Lender shall immediately (a) notify the Administrative Agent of such fact, and (b) purchase from the other Lenders such participations in the Loans made by them as shall be

necessary to cause such purchasing Lender to share the excess payment in respect of such Loans pro rata with each of them; *provided* that if all or any portion of such excess payment is thereafter recovered from the purchasing Lender under any of the circumstances described in Section 10.06 (including pursuant to any settlement entered into by the purchasing Lender in its discretion), such purchase shall to that extent be rescinded and each other Lender shall repay to the purchasing Lender the purchase price paid therefor, together with an amount equal to such paying Lender's ratable share (according to the proportion of (i) the amount of such paying Lender's required repayment to (ii) the total amount so recovered from the purchasing Lender) of any interest or other amount paid or payable by the purchasing Lender in respect of the total amount so recovered, without further interest thereon. The Borrower agrees that any Lender so purchasing a participation from another Lender may, to the fullest extent permitted by applicable Law, exercise all its rights of payment (including the right of setoff, but subject to Section 10.09) with respect to such participation as fully as if such Lender were the direct creditor of the Borrower in the amount of such participation. The Administrative Agent will keep records (which shall be conclusive and binding in the absence of manifest error) of participations purchased under this Section 2.14 and will in each case notify the Lenders following any such purchases or repayments. Each Lender that purchases a participation pursuant to this Section 2.14 shall from and after such purchase have the right to give all notices, requests, demands, directions and other communications under this Agreement with respect to the portion of the Obligations purchased to the same extent as though the purchasing Lender were the original owner of the Obligations purchased.

Section 2.15 Incremental Borrowings.

- (a) The Borrower may at any time or from time to time after the Closing Date, by notice to the Administrative Agent (whereupon the Administrative Agent shall promptly deliver a copy to each of the Lenders), request one or more additional tranches of term loans (the "**Incremental Term Loans**"), *provided* that both at the time of any such request and upon the effectiveness of any Incremental Amendment referred to below, no Default or Event of Default shall exist and at the time that any such Incremental Term Loan is made (and after giving effect thereto) no Default or Event of Default shall exist. Each tranche of Incremental Term Loans shall be in an aggregate principal amount that is not less than \$5,000,000 (*provided* that such amount may be less than \$5,000,000 if such amount represents all remaining availability under the limit set forth in the next sentence). Notwithstanding anything to the contrary herein, the aggregate amount of the Incremental Term Loans (together with the aggregate amount of any Incremental First Lien Term Loans) shall not exceed the sum of \$50,000,000 and the aggregate amount of all voluntary prepayments of Loans hereunder and of First Lien Term Loans under the First Lien Credit Agreement (such sum, the "**Incremental Availability**"); *provided*, that the Borrower may incur additional Incremental Term Loans hereunder (the "**Additional Incremental Term Loans**"), so long as, on a Pro Forma Basis after giving effect to the incurrence of such Additional Incremental Term Loan, either (i) the Senior Secured Incurrence Test would be satisfied or (ii) the Senior Secured Leverage Ratio (calculated on a Pro Forma Basis) shall be no greater than the Senior Secured Leverage

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Ratio in effect immediately prior to such incurrence (it being understood that, subject to the satisfaction of such test, Additional Incremental Term Loans may be effected by the Borrower whether or not there is any unused Incremental Availability). The Incremental Term Loans and Additional Incremental Term Loans (a) shall rank *pari passu* in right of payment and of security with the Loans, (b) shall not mature earlier than the Maturity Date and (c) shall be treated substantially the same as the Loans (in each case, including with respect to mandatory and voluntary prepayments), *provided that* (i) the terms and conditions applicable to Incremental Term Loans and Additional Incremental Term Loans may be materially different from those of the Loans to the extent such differences are reasonably acceptable to the Administrative Agent and (ii) the interest rates applicable to the Incremental Term Loans and Additional Incremental Term Loans shall be determined by the Borrower and the lenders thereof; provided, further, that, as of the date of the incurrence of the Incremental Term Loans or Additional Incremental Term Loans, as the case may be, the Weighted Average Life to Maturity of the Incremental Term Loans or Additional Incremental Term Loans, as applicable, shall not be shorter than that of the Loans. Each notice from the Borrower pursuant to this Section shall set forth the requested amount and proposed terms of the relevant Incremental Term Loans or Additional Incremental Term Loans, as applicable. Incremental Term Loans and Additional Incremental Term Loans may be made by any existing Lender (and each existing Lender will have the right, but not an obligation, to make a portion of any Incremental Term Loan or Additional Incremental Term Loan on terms permitted in this Section 2.15 and otherwise on terms reasonably acceptable to the Administrative Agent) or by any other bank or other financial institution (any such other bank or other financial institution being called an **"Additional Lender"**). Commitments in respect of Incremental Term Loans and Additional Incremental Term Loans shall become Commitments under this Agreement pursuant to an amendment (an **"Incremental Amendment"**) to this Agreement and, as appropriate, the other Loan Documents, executed by Holdings, the Borrower, each Lender agreeing to provide such Commitment, if any, each Additional Lender, if any, and the Administrative Agent. The Incremental Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section. The effectiveness of (and the borrowing under) any Incremental Amendment shall be subject to the satisfaction on the date thereof (each, an **"Incremental Facility Closing Date"**) of each of the conditions set forth in Section 4.02 (it being understood that all references to "the date of such Borrowing" or similar language in such Section 4.02 shall be deemed to refer to the effective date of such Incremental Amendment) and such other conditions as the parties thereto shall agree. The Borrower will use the proceeds of the Incremental Term Loans and Additional Incremental Term Loans for any purpose not

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prohibited by this Agreement. No Lender shall be obligated to provide any Incremental Term Loans or Additional Incremental Term Loans.

- (b) This Section 2.15 shall supersede any provisions in Section 2.14 or 10.01 to the contrary.

ARTICLE III TAXES, INCREASED COSTS PROTECTION AND ILLEGALITY

Section 3.01 Taxes.

- (a) Except as provided in this Section 3.01, any and all payments by the Borrower or any Guarantor to or for the account of any Agent or any Lender under any Loan Document shall be made free and clear of and without deduction for any and all present or future taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and all liabilities (including additions to tax, penalties and interest) with respect thereto, excluding the Excluded Taxes (all such non-excluded taxes, duties, levies, imposts, deductions, assessments, fees, withholdings or similar charges, and liabilities being hereinafter referred to as "Taxes"). If the Borrower or any Guarantor shall be required by any Laws to deduct any Taxes or Other Taxes from or in respect of any sum payable under any Loan Document to any Agent or any Lender, (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 3.01), each of such Agent and such Lender receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower or Guarantor shall make such deductions, (iii) the Borrower or Guarantor shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable Laws, and (iv) within thirty (30) days after the date of such payment (or, if receipts or evidence are not available within thirty (30) days, as soon as possible thereafter), the Borrower shall furnish to such Agent or Lender (as the case may be) the original or a facsimile copy of a receipt evidencing payment thereof to the extent such a receipt is issued therefor, or other written proof of payment thereof that is reasonably satisfactory to the Administrative Agent. If the Borrower fails to pay any Taxes or Other Taxes when due to the appropriate taxing authority or fails to remit to any Agent or any Lender the required receipts or other required documentary evidence, the Borrower shall indemnify such Agent and such Lender for any incremental taxes, interest or penalties that may become payable by such Agent or such Lender arising out of such failure.
- (b) In addition, the Borrower agrees to pay any and all present or future stamp, court or documentary taxes and any other excise, property, intangible or mortgage recording taxes or charges or similar levies which arise from any payment made under any Loan Document or from the execution, delivery, performance, enforcement or registration of, or otherwise with respect to, any Loan Document excluding, in each case,

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such amounts that result from an Assignment and Assumption, grant of a Participation, transfer or assignment to or designation of a new Applicable Lending Office or other office for receiving payments under any Loan Document, except to the extent that any such change is requested or required in writing by the Borrower (all such non-excluded taxes described in this Section 3.01(b) being hereinafter referred to as "**Other Taxes**").

- (c) The Borrower agrees to indemnify each Agent and each Lender for (i) the full amount of Taxes and Other Taxes (including any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable and paid under this Section 3.01) payable by such Agent and such Lender and (ii) any reasonable expenses arising therefrom or with respect thereto, in each case whether or not such Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority; *provided* such Agent or Lender, as the case may be, provides the Borrower with a written statement thereof setting forth in reasonable detail the basis and calculation of such amounts. Payment under this Section 3.01(c) shall be made within ten (10) days after the date such Lender or such Agent makes a demand therefor.
- (d) The Borrower shall not be required pursuant to this Section 3.01 to pay any additional amount to, or to indemnify, any Lender or Agent, as the case may be, to the extent that such Lender or such Agent becomes subject to Taxes subsequent to the Closing Date (or, if later, the date such Lender or Agent becomes a party to this Agreement) as a result of a change in the place of organization or place of doing business of such Lender or Agent or a change in the lending office of such Lender, except to the extent that any such change is requested or required in writing by the Borrower (and *provided* that nothing in this clause (d) shall be construed as relieving the Borrower from any obligation to make such payments or indemnification in the event of a change in lending office or place of organization that precedes a Change in Law to the extent such Taxes result from a Change in Law).
- (e) If any Lender or Agent determines, in its reasonable discretion, that it is entitled to receive a refund in respect of any Taxes or Other Taxes as to which indemnification or additional amounts have been paid to it by the Borrower pursuant to this Section 3.01, it shall use its reasonable efforts to receive such refund and upon receipt of any such refund shall promptly remit such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 3.01 with respect to the Taxes or Other Taxes giving rise to such refund plus any interest included in such refund by the relevant taxing authority attributable thereto) to the Borrower, net of all reasonable out-of-pocket expenses of the Lender or Agent, as the case may be and without interest (other than any interest paid by the relevant taxing authority with respect to such refund); *provided* that the Borrower, upon the request of the

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Lender or Agent, as the case may be, agrees promptly to return such refund to such party in the event such party is required to repay such refund to the relevant taxing authority. Such Lender or Agent, as the case may be, shall, at the Borrower's request, provide the Borrower with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant taxing authority (*provided* that such Lender or Agent may delete any information therein that such Lender or Agent deems confidential). Nothing herein contained shall interfere with the right of a Lender or Agent to arrange its tax affairs in whatever manner it thinks fit nor oblige any Lender or Agent to claim any tax refund or to make available its tax returns or disclose any information relating to its tax affairs or any computations in respect thereof or require any Lender or Agent to do anything that would prejudice its ability to benefit from any other refunds, credits, reliefs, remissions or repayments to which it may be entitled.

- (f) Each Lender agrees that, upon the occurrence of any event giving rise to the operation of Section 3.01(a) or (c) with respect to such Lender it will, if requested by the Borrower, use commercially reasonable efforts (subject to legal and regulatory restrictions) to designate another Applicable Lending Office for any Loan affected by such event; provided that such efforts are made on terms that, in the reasonable judgment of such Lender, cause such Lender and its Applicable Lending Office(s) to suffer no material economic, legal or regulatory disadvantage, and *provided further* that nothing in this Section 3.01(f) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.01(a) or (c).

Section 3.02 Illegality.

If any Lender determines that any Law has made it unlawful, or that any Governmental Authority that is a court, statutory board or commission has asserted that it is unlawful, for any Lender or its Applicable Lending Office to make, maintain or fund Eurocurrency Rate Loans or to determine or charge interest rates based upon the Eurocurrency Rate as contemplated by this Agreement, then, on notice thereof by such Lender to the Borrower through the Administrative Agent, (A) any obligation of such Lender to make or continue Eurocurrency Rate Loans or to convert Base Rate Loans to Eurocurrency Rate Loans shall be suspended until such Lender notifies the Administrative Agent and the Borrower that the circumstances giving rise to such determination no longer exist, (B) upon receipt of such notice, the Borrower shall upon demand from such Lender (with a copy to the Administrative Agent), prepay in the case of Eurocurrency Rate Loans that have become unlawful or, if applicable, convert all Eurocurrency Rate Loans of such Lender to Base Rate Loans, either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Rate Loans to such day, or promptly, if such Lender may not lawfully continue to maintain such Eurocurrency Rate Loans, (C) upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted and all amounts due, if any, in connection with such prepayment or conversion under Section 3.05. Each Lender agrees to designate a different Applicable

Lending Office if such designation will avoid the need for any such notice and will not, in the good faith judgment of such Lender, otherwise be materially disadvantageous to such Lender.

Section 3.03 Inability to Determine Rates.

If the Required Lenders determine that for any reason adequate and reasonable means do not exist for determining the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan, or that the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, or that Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and the Interest Period of such Eurocurrency Rate Loan, the Administrative Agent will promptly so notify the Borrower and each Lender. Thereafter, the obligation of the Lenders to make or maintain Eurocurrency Rate Loans shall be suspended until the Administrative Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein.

Section 3.04 Increased Cost and Reduced Return; Capital Adequacy; Reserves on Eurocurrency Rate Loans.

- (a) If any Lender determines that as a result of the introduction of or any change in or in the interpretation of any Law, in each case after the date hereof, or such Lender's compliance therewith, there shall be any increase in the cost to such Lender of agreeing to make or making, funding or maintaining any Eurocurrency Rate Loan or issuing or participating in Letters of Credit, or a reduction in the amount received or receivable by such Lender in connection with any of the foregoing (excluding for purposes of this Section 3.04(a) any such increased costs or reduction in amount resulting from (i) Taxes or Other Taxes covered by Section 3.01, (ii) the imposition of, or any change in the rate of, any taxes imposed on or measured by net income (including branch profits) and franchise (and similar) taxes imposed in lieu of net income taxes payable by such Lender, or (iii) reserve requirements contemplated by Section 3.04(c)), then from time to time within fifteen (15) days after demand by such Lender setting forth in reasonable detail such increased costs (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such increased cost or reduction.
- (b) If any Lender determines that the introduction of any Law regarding capital adequacy or any change therein or in the interpretation thereof, in each case after the date hereof, or compliance by such Lender (or its Applicable Lending Office) therewith, has the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of such Lender's obligations hereunder (taking into consideration its policies with respect to capital adequacy and such Lender's desired return on capital), then from time to time upon demand

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of such Lender setting forth in reasonable detail the charge and the calculation of such reduced rate of return (with a copy of such demand to the Administrative Agent given in accordance with Section 3.06), the Borrower shall pay to such Lender such additional amounts as will compensate such Lender for such reduction within fifteen (15) days after receipt of such demand.

- (c) The Borrower shall pay to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including Eurocurrency funds or deposits, additional interest on the unpaid principal amount of each Eurocurrency Rate Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive in the absence of manifest error), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Eurocurrency Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error) which in each case shall be due and payable on each date on which interest is payable on such Loan, provided the Borrower shall have received at least fifteen (15) days' prior notice (with a copy to the Administrative Agent) of such additional interest or cost from such Lender. If a Lender fails to give notice fifteen (15) days prior to the relevant Interest Payment Date, such additional interest or cost shall be due and payable fifteen (15) days from receipt of such notice.
- (d) Subject to Section 3.06(b), failure or delay on the part of any Lender to demand compensation pursuant to this Section 3.04 shall not constitute a waiver of such Lender's right to demand such compensation.
- (e) If any Lender requests compensation under this Section 3.04, then such Lender will, if requested by the Borrower, use commercially reasonable efforts to designate another Applicable Lending Office for any Loan affected by such event; provided that such efforts are made on terms that, in the reasonable judgment of such Lender, cause such Lender and its Applicable Lending Office(s) to suffer no material economic, legal or regulatory disadvantage; and provided further that nothing in this Section 3.04(e) shall affect or postpone any of the Obligations of the Borrower or the rights of such Lender pursuant to Section 3.04(a), (b), (c) or (d).

Section 3.05 Funding Losses.

Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Borrower shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:

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- (a) any continuation, conversion, payment or prepayment of any Eurocurrency Rate Loan on a day other than the last day of the Interest Period for such Loan; or
- (b) any failure by the Borrower (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Eurocurrency Rate Loan on the date or in the amount notified by the Borrower;

including any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan or from fees payable to terminate the deposits from which such funds were obtained.

For purposes of calculating amounts payable by the Borrower to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Eurocurrency Rate Loan made by it at the Eurocurrency Rate for such Loan by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurocurrency Rate Loan was in fact so funded.

Section 3.06 Matters Applicable to All Requests for Compensation.

- (a) Any Agent or any Lender claiming compensation under this Article III shall deliver a certificate to the Borrower setting forth the additional amount or amounts to be paid to it hereunder which shall be conclusive in the absence of manifest error. In determining such amount, such Agent or such Lender may use any reasonable averaging and attribution methods.
- (b) With respect to any Lender's claim for compensation under Sections 3.01, 3.02, 3.03 or 3.04, the Borrower shall not be required to compensate such Lender for any amount incurred more than one hundred and eighty (180) days prior to the date that such Lender notifies the Borrower of the event that gives rise to such claim; *provided* that, if the circumstance giving rise to such claim is retroactive, then such 180-day period referred to above shall be extended to include the period of retroactive effect thereof. If any Lender requests compensation by the Borrower under Section 3.04, the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend the obligation of such Lender to make or continue from one Interest Period to another Eurocurrency Rate Loans, or to convert Base Rate Loans into Eurocurrency Rate Loans, until the event or condition giving rise to such request ceases to be in effect (in which case the provisions of Section 3.06(c) shall be applicable); *provided* that such suspension shall not affect the right of such Lender to receive the compensation so requested.
- (c) If the obligation of any Lender to make or continue from one Interest Period to another any Eurocurrency Rate Loan, or to convert Base Rate Loans into Eurocurrency Rate Loans shall be suspended pursuant to Section 3.06(b) hereof, such Lender's Eurocurrency Rate Loans shall be automatically converted into Base Rate Loans on the last day(s) of the

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then current Interest Period(s) for such Eurocurrency Rate Loans (or, in the case of an immediate conversion required by Section 3.02, on such earlier date as required by Law) and, unless and until such Lender gives notice as provided below that the circumstances specified in Section 3.01, 3.02, 3.03 or 3.04 hereof that gave rise to such conversion no longer exist:

- (i) to the extent that such Lender's Eurocurrency Rate Loans have been so converted, all payments and prepayments of principal that would otherwise be applied to such Lender's Eurocurrency Rate Loans shall be applied instead to its Base Rate Loans; and
 - (ii) all Loans that would otherwise be made or continued from one Interest Period to another by such Lender as Eurocurrency Rate Loans shall be made or continued instead as Base Rate Loans, and all Base Rate Loans of such Lender that would otherwise be converted into Eurocurrency Rate Loans shall remain as Base Rate Loans.
- (d) If any Lender gives notice to the Borrower (with a copy to the Administrative Agent) that the circumstances specified in Section 3.01, 3.02, 3.03 or 3.04 hereof that gave rise to the conversion of such Lender's Eurocurrency Rate Loans pursuant to this Section 3.06 no longer exist (which such Lender agrees to do promptly upon such circumstances ceasing to exist) at a time when Eurocurrency Rate Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be automatically converted, on the first day(s) of the next succeeding Interest Period(s) for such outstanding Eurocurrency Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans held by the Lenders holding Eurocurrency Rate Loans and by such Lender are held pro rata (as to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective Commitments.

Section 3.07 Replacement of Lenders under Certain Circumstances.

- (a) If at any time (i) any Lender requests reimbursement for amounts owing pursuant to Section 3.01 or 3.04 as a result of any condition described in such Sections or any Lender ceases to make Eurocurrency Rate Loans as a result of any condition described in Section 3.02 or Section 3.04, (ii) any Lender becomes a Defaulting Lender or (iii) any Lender becomes a Non-Consenting Lender, then the Borrower may, on ten (10) Business Days' prior written notice to the Administrative Agent and such Lender, replace such Lender by causing such Lender to (and such Lender shall be obligated to) assign pursuant to Section 10.07(b) (with the assignment fee to be paid by the Borrower in such instance) all of its rights and obligations under this Agreement to one or more Eligible Assignees; *provided* that neither the Administrative Agent nor any Lender shall have any obligation to the Borrower to find a replacement Lender or other such Person; and *provided further* that (A) in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments

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required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments and (B) in the case of any such assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable Eligible Assignees shall have agreed to the applicable departure, waiver or amendment of the Loan Documents.

- (b) Any Lender being replaced pursuant to Section 3.07(a) above shall (i) execute and deliver an Assignment and Assumption with respect to such Lender's Commitment and outstanding Loans, and (ii) deliver Term Notes, if any, evidencing such Loans to the Borrower or Administrative Agent. Pursuant to such Assignment and Assumption, (A) the assignee Lender shall acquire all or a portion, as the case may be, of the assigning Lender's Commitment and outstanding Loans, (B) all obligations of the Borrower owing to the assigning Lender relating to the Loans so assigned shall be paid in full by the assignee Lender to such assigning Lender concurrently with such assignment and assumption and (C) upon such payment and, if so requested by the assignee Lender, delivery to the assignee Lender of the appropriate Term Note or Term Notes executed by the Borrower, the assignee Lender shall become a Lender hereunder and the assigning Lender shall cease to constitute a Lender hereunder with respect to such assigned Loans and Commitments, except with respect to indemnification provisions under this Agreement, which shall survive as to such assigning Lender.
- (c) **[Reserved]**
- (d) In the event that (i) the Borrower or the Administrative Agent has requested that the Lenders consent to a departure or waiver of any provisions of the Loan Documents or agree to any amendment thereto, (ii) the consent, waiver or amendment in question requires the agreement of all affected Lenders in accordance with the terms of Section 10.01 and (iii) the Required Lenders have agreed to such consent, waiver or amendment, then any Lender who does not agree to such consent, waiver or amendment shall be deemed a "Non-Consenting Lender".

Section 3.08 Survival.

All of the Borrower's obligations under this Article III shall survive termination of the Aggregate Commitments and repayment of all other Obligations hereunder.

ARTICLE IV CONDITIONS PRECEDENT TO BORROWING

Section 4.01 Conditions of Initial Borrowing.

The obligation of each Lender to make its initial credit extension hereunder is subject to satisfaction of the following conditions precedent except as otherwise agreed between the Borrower and the Administrative Agent:

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- (a) The Administrative Agent's receipt of the following, each of which shall be originals or facsimiles (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each in form and substance reasonably satisfactory to the Administrative Agent and its legal counsel:
- (i) executed counterparts of this Agreement, the Guaranty and the Limited Recourse Guaranty;
 - (ii) a Term Note executed by the Borrower in favor of each Lender that has requested a Term Note at least five Business Days in advance of the Closing Date;
 - (iii) executed counterparts of the Intercreditor Agreement;
 - (iv) each Collateral Document set forth on Schedule 1.01A required to be executed on the Closing Date as indicated on such schedule, duly executed by each Loan Party party thereto, together with:
 - (A) certificates, if any, representing the pledged equity referred to therein accompanied by undated stock powers executed in blank and instruments evidencing the pledged debt referred to therein indorsed in blank;
 - (B) to the extent required under the Collateral and Guarantee Requirement, opinions of local counsel for the Loan Parties in the provinces in which the Mortgaged Properties are located, with respect to the enforceability and perfection of the Mortgages and any related fixture filings in form and substance reasonably satisfactory to the Administrative Agent and Collateral Agent; and
 - (C) evidence that all other actions, recordings and filings that the Administrative Agent or Collateral Agent may deem reasonably necessary to satisfy the Collateral and Guarantee Requirement shall have been taken, completed or otherwise provided for in a manner reasonably satisfactory to the Administrative Agent and Collateral Agent;
 - (v) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party or is to be a party on the Closing Date;

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- (vi) an opinion from Simpson Thacher & Bartlett LLP, New York counsel to the Loan Parties substantially in the form of Exhibit G-1;
 - (vii) an opinion from Stikeman Elliott LLP, Canadian counsel to the Loan Parties substantially in the form of Exhibit G-2;
 - (viii) an opinion of Goodmans LLP, counsel to OCP, substantially in the form of Exhibit G-3;
 - (ix) a certificate signed by a Responsible Officer of the Borrower certifying that since December 31, 2006 there has been no Closing Date Material Adverse Effect;
 - (x) a certificate attesting to the Solvency of the Loan Parties (taken as a whole) on the Closing Date after giving effect to the Transaction, from an officer of the Borrower;
 - (xi) evidence that all insurance (including title insurance) required to be maintained pursuant to the Loan Documents has been obtained and is in effect and that the Administrative Agent and Collateral Agent has been named as loss payee and additional insured under each insurance policy with respect to such insurance as to which the Administrative Agent shall have requested to be so named;
 - (xii) a Committed Loan Notice relating to the initial Borrowing; and
 - (xiii) copies of a recent Lien, judgment, patent and trademark search in each jurisdiction reasonably requested by the Collateral Agent with respect to the Loan Parties.
- (b) All fees and expenses required to be paid hereunder and invoiced at least three Business Days prior to the Closing Date shall have been paid in full in cash or will be paid on the Closing Date out of the initial Borrowing.
 - (c) Prior to or simultaneously with the initial Borrowing, (i) the Equity Contribution shall have been consummated and (ii) the Acquisition shall be consummated in accordance with the terms of the Purchase Agreement (without giving effect to any amendments or waivers thereto that are materially adverse to the Lenders without the reasonable consent of the Administrative Agent (which consent shall not be unreasonably withheld or delayed)).
 - (d) To the extent Equity Interests other than common Equity Interests were issued in connection with the Equity Contribution, such issuance shall be on terms and conditions, and pursuant to documentation, reasonably satisfactory to the Administrative Agent to the extent material to the interests of the Lenders.

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- (e) The Shareholder Subordinated Note shall be on terms and conditions, and pursuant to documentation, reasonably satisfactory to the Administrative Agent to the extent material to the interests of the Lenders.
- (f) The Administrative Agent shall have received (i) the Audited Financial Statements and the audit report for such financial statements (which shall not be subject to any qualification), and (ii) the Pro Forma Financial Statements.

Section 4.02 Conditions to all Borrowings.

The obligation of each Lender to honor any Committed Loan Notice (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type, or a continuation of Eurocurrency Rate Loans) and the effectiveness of any Incremental Amendment pursuant to Section 2.15 is subject to the following conditions precedent:

- (a) The representations and warranties of the Borrower and each other Loan Party contained in Article V or any other Loan Document (except, in the case of the initial Borrowing, the representations contained in Sections 5.03, 5.05, 5.06, 5.07, 5.08, 5.09, 5.11, 5.13, 5.14, 5.15, 5.16 and 5.17 and in any other Loan Document) shall be true and correct in all material respects on and as of the date of such Borrowing; *provided* that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; *provided further* that any representation and warranty that is qualified as to "materiality", "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.
- (b) Except in the case of the initial Borrowing, no Default shall exist, or would result from such proposed Borrowing or from the application of the proceeds therefrom.
- (c) The Administrative Agent shall have received a Committed Loan Notice in accordance with the requirements hereof.

Each Committed Loan Notice (other than a Committed Loan Notice requesting only a conversion of Loans to the other Type or a continuation of Eurocurrency Rate Loans) submitted by a Borrower shall be deemed to be a representation and warranty that the conditions specified in Sections 4.02(a) and (b) have been satisfied on and as of the date of the applicable Borrowing.

ARTICLE V REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants to the Agents and the Lenders that:

Section 5.01 Existence, Qualification and Power; Compliance with Laws.

Each Loan Party and each other Restricted Subsidiary (a) is a Person duly incorporated, organized or formed, validly existing and in good standing under the Laws of the jurisdiction of its incorporation or organization, (b) has all requisite power and authority to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, (c) is duly qualified and in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, (d) is in compliance with all Laws, orders, writs, injunctions and orders and (e) has all requisite governmental licenses, authorizations, consents and approvals to operate its business as currently conducted; except in each case referred to in clause (c), (d) or (e), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

Section 5.02 Authorization; No Contravention.

The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is a party, and the consummation of the Transaction, are within such Loan Party's corporate or other powers, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person's Organization Documents, (b) conflict with or result in any breach or contravention of, or the creation of any Lien under (other than as permitted by Section 7.01), or require any payment to be made under (i) any Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any material order, injunction, writ or decree of any Governmental Authority or any arbitral award to which such Person or its property is subject; or (c) violate any material Law; except with respect to any conflict, breach or contravention or payment (but not creation of Liens) referred to in clause (b)(i), to the extent that such conflict, breach, contravention or payment could not reasonably be expected to have a Material Adverse Effect.

Section 5.03 Governmental Authorization; Other Consents.

No material approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with (a) the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, or for the consummation of the Transaction, (b) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents, (c) the perfection or maintenance of the Liens created under the Collateral Documents (including the priority thereof) or (d) the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, except for (i) filings necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Secured Parties, (ii) the approvals, consents, exemptions, authorizations, actions, notices and filings which have been duly obtained, taken, given or made and are in full force and effect and (iii) those approvals, consents, exemptions, authorizations or other actions, notices or filings, the failure of which to obtain or make could not reasonably be expected to have a Material Adverse Effect.

Section 5.04 Binding Effect.

This Agreement and each other Loan Document has been duly executed and delivered by each Loan Party that is party thereto. This Agreement and each other Loan Document constitutes a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity.

Section 5.05 Financial Statements; No Material Adverse Effect.

- (a) (i) The Audited Financial Statements and Unaudited Financial Statements fairly present in all material respects the financial condition of the Business as of the dates thereof and the results of operations thereof for the period covered thereby in accordance with GAAP consistently applied throughout the periods covered thereby, except as otherwise expressly noted therein.
- (ii) The unaudited pro forma consolidated balance sheet of the Borrower and its Subsidiaries as at March 31, 2007 (including the notes thereto) (the "**Pro Forma Balance Sheet**") and the unaudited pro forma consolidated statement of operations of the Borrower and its Subsidiaries for the 12 month period ending on March 31, 2007 (together with the Pro Forma Balance Sheet, the "**Pro Forma Financial Statements**"), copies of which have heretofore been furnished to the Administrative Agent, have been prepared giving effect (as if such events had occurred on such date or at the beginning of such periods, as the case may be) to the Transaction and each material acquisition by the Transferred Company or any of its Subsidiaries consummated after December 31, 2006 and prior to the Closing Date. The Pro Forma Financial Statements have been prepared in good faith, based on assumptions believed by the Borrower to be reasonable as of the date of delivery thereof, and present fairly in all material respects on a pro forma basis the estimated financial position of the Borrower and its Subsidiaries as at March 31, 2007 and their estimated results of operations for the periods covered thereby, assuming that the events specified in the preceding sentence had actually occurred at such date or at the beginning of the periods covered thereby.
- (b) Since the Closing Date, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.
- (c) The forecasts of consolidated balance sheets, income statements and cash flow statements of the Business for each fiscal year ending after the Closing Date until the seventh anniversary of the Closing Date, copies of which have been furnished to the Administrative Agent prior to the Closing Date in a form reasonably satisfactory to it, have been prepared in good faith on the basis of the assumptions stated therein, which

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assumptions were believed to be reasonable at the time of preparation of such forecasts, it being understood that actual results may vary from such forecasts and that such variations may be material.

Section 5.06 Litigation.

Except as set forth on Schedule 5.06, there are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of the Borrower, threatened in writing or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against the Borrower or any Restricted Subsidiary or against any of their properties or revenues that either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.07 Ownership of Property; Liens.

Each Loan Party and each of its Subsidiaries has good record and marketable title in fee simple to, or valid leasehold interests in, or easements or other limited property interests in, all real property necessary in the ordinary conduct of its business, free and clear of all Liens except for minor defects in title that do not materially interfere with its ability to conduct its business or to utilize such assets for their intended purposes and Liens permitted by Section 7.01 and except where the failure to have such title or other interest could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.08 Environmental Compliance.

- (a) There are no pending or, to the knowledge of the Borrower, threatened claims, actions, suits, or proceedings by or against the Borrower or any Restricted Subsidiary alleging potential liability or responsibility for violation of, or otherwise relating to, any applicable Environmental Law that could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.
- (b) Except as could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (i) there are no and never have been any underground or aboveground storage tanks or any surface impoundments, septic tanks, pits, sumps or lagoons in which Hazardous Materials are being or have been treated, stored or disposed on any property currently owned, leased or operated by any Loan Party or any other Restricted Subsidiary or, to its knowledge, on any property formerly owned or operated by any Loan Party or any other Restricted Subsidiary; (ii) there is no asbestos or asbestos-containing material on any property currently owned or operated by any Loan Party or any other Restricted Subsidiary; and (iii) Hazardous Materials have not been released, discharged or disposed of by any of the Loan Parties or any other Restricted Subsidiary at any location in a manner which would give rise to liability under applicable Environmental Laws.
- (c) The properties currently or formerly owned, leased or operated by the Borrower and its Restricted Subsidiaries do not contain any Hazardous Materials in amounts or concentrations which (i) constitute a violation of,

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- (ii) require remedial action under, or (iii) could give rise to liability under, applicable Environmental Laws, which violations, remedial actions and liabilities, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.
- (d) Neither the Borrower nor any of its Restricted Subsidiaries is undertaking, or has completed, either individually or together with other potentially responsible parties, any investigation or assessment or remedial or response action relating to any actual or threatened release, discharge or disposal of Hazardous Materials at any site or location, either voluntarily or pursuant to the order of any Governmental Authority or the requirements of any applicable Environmental Law except for such investigation or assessment or remedial or response action that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.
- (e) All Hazardous Materials transported from any property currently or formerly owned or operated by any Loan Party or any other Restricted Subsidiary for off-site disposal have been disposed of in a manner not reasonably expected to result, individually or in the aggregate, in a Material Adverse Effect.
- (f) Except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, none of the Loan Parties nor any other Restricted Subsidiary has contractually assumed any liability or obligation under or relating to any applicable Environmental Law.
- (g) Except as would not reasonably be expected to result, individually or in the aggregate, in a Material Adverse Effect, the Loan Parties and each other Restricted Subsidiary and their respective businesses, operations and properties are and have been in compliance with all applicable Environmental Laws.

Section 5.09 Taxes.

Except as could not, either individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Borrower and each Restricted Subsidiary have timely filed all federal, provincial, state, municipal, foreign and other tax returns and reports required to be filed, and have timely paid all federal, provincial, state, municipal, foreign and other taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except those which are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves have been provided in accordance with GAAP.

Section 5.10 [Reserved]**Section 5.11 Subsidiaries; Equity Interests.**

As of the Closing Date, neither the Borrower nor any other Loan Party has any Subsidiaries other than those specifically disclosed in Schedule 5.11, and all of the outstanding Equity Interests in the Borrower and the Material Subsidiaries have been validly issued, are fully paid and nonassessable and all Equity Interests owned by Holdings or any other Loan Party are owned free and clear of all Liens except (i) those created under the Collateral Documents and (ii) any nonconsensual Lien that is permitted under Section 7.01. As of the Closing Date, Schedule 5.11 (a) sets forth the name and jurisdiction of each Subsidiary, (b) sets forth the ownership interest of Holdings, the Borrower and any of their Subsidiaries in each of their Subsidiaries, including the percentage of such ownership and (c) identifies each Person the Equity Interests of which are required to be pledged on the Closing Date pursuant to the Collateral and Guarantee Requirement.

Section 5.12 Margin Regulations; Investment Company Act.

- (a) No Loan Party is engaged nor will it engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock, and no proceeds of any Borrowings will be used for any purpose that violates Regulation U.
- (b) None of the Borrower, any Person Controlling the Borrower or any Subsidiary is or is required to be registered as an "investment company" under the *Investment Company Act* of 1940.

Section 5.13 Disclosure.

No report, financial statement, certificate or other written information furnished by or on behalf of any Loan Party to any Agent or any Lender in connection with the transactions contemplated hereby and the negotiation of this Agreement or delivered hereunder or any other Loan Document (as modified or supplemented by other information so furnished) when taken as a whole contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not materially misleading; provided that, with respect to projected financial information and pro forma financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation; it being understood that such projections may vary from actual results and that such variances may be material.

Section 5.14 Intellectual Property; Licenses, Etc.

Each of the Loan Parties and the other Restricted Subsidiaries own, license or possess the right to use, all of the trademarks, service marks, trade names, domain names, copyrights, patents, patent rights, technology, software, know-how database rights, design rights and other intellectual property rights (collectively, "IP Rights") that are reasonably necessary for the operation of their

respective businesses as currently conducted, and, to the knowledge of the Borrower, without violation of the rights of any Person, except to the extent such violations, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. To the knowledge of the Borrower, no such IP Rights infringe upon any rights held by any Person except for such infringements, individually or in the aggregate, which could not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding any such IP Rights, is pending or, to the knowledge of the Borrower, threatened against any Loan Party or Subsidiary, which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 5.15 Solvency.

On the Closing Date after giving effect to the Transaction the Loan Parties, on a consolidated basis, are Solvent.

Section 5.16 Pension Plans.

- (a) The Canadian Pension Plans will have applied for registration within 60 days following the Closing Date or are duly registered under the Tax Act (if required to be so registered) and any other applicable Laws which require registration, have been administered in accordance with the Tax Act and such other applicable Laws and no event has occurred which could reasonably be expected to cause the loss of such registered status, except, in each case, to the extent that any failure to do so, or any such occurrence, could not reasonably be expected to have a Material Adverse Effect. All material obligations of each of the Loan Parties (including fiduciary, funding, investment and administration obligations) required to be performed in connection with the Canadian Pension Plans and the funding agreements therefor have been performed on a timely basis, except to the extent that any failure to do so could not reasonably be expected to have a Material Adverse Effect. There are no outstanding disputes concerning the assets of the Canadian Pension Plans that could reasonably be expected to have a Material Adverse Effect. All contributions or premiums required to be made or paid by each of the Loan Parties to the Canadian Pension Plans have been made on a timely basis in accordance with the terms of such plans and all applicable Laws, except to the extent that any failure to do so could not reasonably be expected to have a Material Adverse Effect. There have been no improper withdrawals or applications of the assets of the Canadian Pension Plans that could reasonably be expected to have a Material Adverse Effect.
- (b) Except where noncompliance would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, (i) each Foreign Plan has been maintained in substantial compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders, and (ii) no Loan Party nor any other Restricted Subsidiary have incurred any material obligations in connection with the termination of or withdrawal from any Foreign Plan. Except as would not reasonably be expected to result in a Material Adverse Effect,

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the present value of the accrued benefit liabilities (whether or not vested) under each Foreign Plan which is funded, determined as of the end of the most recently ended fiscal year of a Loan Party or other Restricted Subsidiary (based on the actuarial assumptions used for purposes of the applicable jurisdiction's financial reporting requirements), did not exceed the current value of the assets of such Foreign Plan, and for each Foreign Plan which is not funded, the obligations of such Foreign Plan are properly accrued.

Section 5.17 [Reserved]

Section 5.18 Shareholder Loans.

The Obligations are "Senior Debt" as defined in the Shareholder Subordinated Note.

**ARTICLE VI
AFFIRMATIVE COVENANTS**

So long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation hereunder which is accrued and payable shall remain unpaid or unsatisfied the Borrower shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02 and 6.03) cause each Restricted Subsidiary to:

Section 6.01 Financial Statements. Deliver to the Administrative Agent for prompt further distribution to each Lender:

- (a) as soon as available, but in any event within one hundred and twenty (120) days after the end of the first fiscal year ending after the Closing Date and within ninety (90) days after the end of each subsequent fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, stockholders' equity and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of PricewaterhouseCoopers LLP or any other independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "ongoing concern" or like qualification or exception;
- (b) as soon as available, but in any event within forty-five (45) days (or, solely in the case of the first three full fiscal quarters ending after the Closing Date, within sixty (60) days) after the end of each of the first three (3) fiscal quarters of each fiscal year of the Borrower (commencing with the first full fiscal quarter ended after the Closing Date), a consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal quarter, and the related (i) consolidated statements of income or operations for such fiscal quarter and for the portion of the fiscal year then

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ended and (ii) consolidated statements of cash flows for the portion of the fiscal year then ended, setting forth in each case in comparative form the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail and certified by a Responsible Officer of the Borrower as fairly presenting in all material respects the financial condition, results of operations, stockholders' equity and cash flows of the Borrower and its Subsidiaries in accordance with GAAP, subject only to normal year-end adjustments and the absence of footnotes; and

- (c) simultaneously with the delivery of each set of consolidated financial statements referred to in Sections 6.01(a) and (b) above, the related consolidating financial statements reflecting the adjustments necessary to eliminate the accounts of Unrestricted Subsidiaries (if any) from such consolidated financial statements.

Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this Section 6.01 may be satisfied with respect to financial information of the Borrower and its Subsidiaries by furnishing (A) the applicable financial statements of any direct or indirect parent of the Borrower that holds all of the Equity Interests of the Borrower or (B) the Borrower's (or any direct or indirect parent thereof), as applicable, Form 10-K or 10-Q, as applicable, filed with the SEC or any comparable continuous disclosures made under the *Ontario Securities Act*, provided that, with respect to each of clauses (A) and (B), (i) to the extent such information relates to a parent of the Borrower, such information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to the Borrower (or such parent), on the one hand, and the information relating to the Borrower and its Restricted Subsidiaries on a standalone basis, on the other hand and (ii) to the extent such information is in lieu of information required to be provided under Section 6.01(a), such materials are accompanied by a report and opinion of PricewaterhouseCoopers LLP or any other independent registered public accounting firm of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any "ongoing concern" or like qualification or exception.

Section 6.02 Certificates; Other Information.

Deliver to the Administrative Agent for prompt further distribution to each Lender:

- (a) no later than five (5) days after the delivery of the financial statements referred to in Section 6.01(a) and (b), a duly completed Compliance Certificate signed by a Responsible Officer of the Borrower;
- (b) promptly after the same are publicly available, copies of all annual, regular, periodic and special reports and registration statements which the Borrower files with the SEC or with any Governmental Authority that may be substituted therefor (other than amendments to any registration statement (to the extent such registration statement, in the form it became effective, is delivered), exhibits to any registration statement and, if applicable, any registration statement on Form S-8) and in any case not

otherwise required to be delivered to the Administrative Agent pursuant hereto;

- (c) promptly after the furnishing thereof, copies of any material requests or material notices received by any Loan Party (other than in the ordinary course of business) or material statements or material reports furnished to any holder of debt securities of any Loan Party or of any of its Subsidiaries having an aggregate outstanding principal amount greater than the Threshold Amount or pursuant to the terms of the First Lien Loan Documents, in each case, so long as the aggregate outstanding principal amount thereunder is greater than the Threshold Amount and not otherwise required to be furnished to the Lenders pursuant to any other clause of this Section 6.02;
- (d) together with the delivery of the financial statements pursuant to Section 6.01(a) and each Compliance Certificate pursuant to Section 6.02(a), (i) a report setting forth the information required by Sections 4.1(c) and (d) and Schedule 1.1A of the Security Agreement (or confirming that there has been no change in such information since the Closing Date or the date of the last such report), (ii) a description of each event, condition or circumstance during the last fiscal quarter covered by such Compliance Certificate requiring a mandatory prepayment under Section 2.06(b) and (iii) a list of Subsidiaries that identifies each Subsidiary as a Restricted Subsidiary or an Unrestricted Subsidiary as of the date of delivery of such Compliance Certificate or a confirmation that there is no change in such information since the later of the Closing Date or the date of the last such list; and
- (e) promptly, such additional information regarding the business, legal, financial or corporate affairs of any Loan Party or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender through the Administrative Agent may from time to time reasonably request.

Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(c) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Borrower posts such documents, or provides a link thereto on the Borrower's website on the Internet at the website address listed on Schedule 10.02; or (ii) on which such documents are posted on the Borrower's behalf on IntraLinks/IntraAgency or another relevant website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); *provided* that: (i) upon written request by the Administrative Agent, the Borrower shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (ii) the Borrower shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding the foregoing, the Borrower shall deliver originally executed Compliance Certificates to the Administrative Agent (in addition to the electronic copies pursuant to the foregoing). Each

Lender shall be solely responsible for timely accessing posted documents or requesting delivery of paper copies of such documents from the Administrative Agent and maintaining its copies of such documents.

Section 6.03 Notices.

Promptly after a Responsible Officer obtains actual knowledge thereof, notify the Administrative Agent:

- (a) of the occurrence of any Default, which notice shall specify the nature thereof, the period of existence thereof and what action the Borrower proposes to take with respect thereto; and
- (b) any litigation or governmental proceeding pending against the Borrower or any of the Subsidiaries that could reasonably be expected to be determined adversely and, if so determined, to result in a Material Adverse Effect.

Section 6.04 [Reserved]

Section 6.05 Maintenance of Existence.

(a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization and (b) take all reasonable action to maintain all rights, privileges (including its good standing), permits, licenses and franchises necessary or desirable in the normal conduct of its business, except in the case of clause (a) and (b), (i) to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect or (ii) pursuant to a transaction permitted by Section 7.04 or 7.05.

Section 6.06 Maintenance of Properties.

Except if the failure to do so could not reasonably be expected to have a Material Adverse Effect, (a) maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order, repair and condition, ordinary wear and tear excepted and casualty or condemnation excepted, and (b) make all necessary renewals, replacements, modifications, improvements, upgrades, extensions and additions thereof or thereto in accordance with prudent industry practice.

Section 6.07 Maintenance of Insurance.

Maintain with financially sound and reputable insurance companies, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Borrower and its Restricted Subsidiaries) as are customarily carried under similar circumstances by such other Persons.

Section 6.08 Compliance with Laws.

Comply in all material respects with the requirements of all Laws and all orders, writs, injunctions, decrees and judgments applicable to it or to its business or property, except if the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.

Section 6.09 Books and Records.

Maintain proper books of record and account, in which entries that are full, true and correct in all material respects and are in conformity with GAAP consistently applied shall be made of all material financial transactions and matters involving the assets and business of the Borrower or such Subsidiary, as the case may be.

Section 6.10 Inspection Rights.

Permit representatives and independent contractors of the Administrative Agent and each Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom (other than the records of the Board of Directors of such Loan Party or such Subsidiary) and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrower; *provided that*, excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent and the Lenders under this Section 6.10 and the Administrative Agent shall not exercise such rights more often than two (2) times during any calendar year absent the existence of an Event of Default and only one (1) such time shall be at the Borrower's expense; *provided further that* when an Event of Default exists, the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrower at any time during normal business hours and upon reasonable advance notice. The Administrative Agent and the Lenders shall give the Borrower the opportunity to participate in any discussions with the Borrower's independent public accountants. Notwithstanding anything to the contrary in this Section 6.10, none of the Borrower or any Restricted Subsidiary will be required to disclose or permit the inspection or discussion, examination or making copies or extracts of, any document, information or other matter (i) that constitutes non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or any Lender (or their respective representatives or contractors) is prohibited by Law or any binding agreement or (iii) that is subject to attorney-client or similar privilege or constitutes attorney work product.

Section 6.11 Covenant to Guarantee Obligations and Give Security.

At the Borrower's expense, take all action necessary or reasonably requested by the Administrative Agent to ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:

- (a) upon (1) the formation or acquisition of any new direct or indirect wholly owned Subsidiary (in each case, other than an Unrestricted Subsidiary or an Excluded Subsidiary) by any Loan Party, the designation in accordance

with Section 6.14 of any existing direct or indirect wholly owned Subsidiary as a Restricted Subsidiary or any wholly owned Subsidiary becoming a Material Subsidiary; or (2) with respect to the Transferred Company (so long as it is a party to the Guaranty), the formation or acquisition of any of its Subsidiaries which would, but for the Transferred Company not being a wholly-owned Subsidiary of any Loan Party, otherwise be included in the immediately preceding clause (1):

- (i) within forty five (45) days after such formation, acquisition, designation or occurrence or such longer period as the Administrative Agent may agree in its reasonable discretion:

- (A) cause each such Domestic Subsidiary or U.S. Subsidiary that is required to become a Guarantor under the Collateral and Guarantee Requirement to furnish to the Administrative Agent a description of the Material Real Properties owned by such Restricted Subsidiary in detail reasonably satisfactory to the Administrative Agent;

- (B) cause each such Domestic Subsidiary or U.S. Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to duly execute and deliver to the Administrative Agent or the Collateral Agent (as appropriate) Mortgages, Security Agreement Supplements and other security agreements and documents (including, with respect to Mortgages, the documents listed in Section 6.13(b)), as reasonably requested by and in form and substance reasonably satisfactory to the Administrative Agent and the Collateral Agent (consistent with the Mortgages, Security Agreement and other Collateral Documents in effect on the Closing Date), in each case granting Liens required by the Collateral and Guarantee Requirement;

- (C) cause each such Restricted Subsidiary that is required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to deliver any and all certificates representing Equity Interests (to the extent certificated) that are required to be pledged pursuant to the Collateral and Guarantee Requirement, accompanied by undated stock powers or other appropriate instruments of transfer executed in blank (or any other documents customary under local law) and instruments evidencing the intercompany Indebtedness held by such Restricted Subsidiary and required to be pledged pursuant to the Collateral Documents, indorsed in blank to the Collateral Agent; and

- (D) take and cause such Restricted Subsidiary and each direct or indirect parent of such Restricted Subsidiary that is

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required to become a Guarantor pursuant to the Collateral and Guarantee Requirement to take whatever action (including, in the case of Domestic Subsidiaries and U.S. Subsidiaries, the recording of Mortgages, the filing of PPSA financing statements and delivery of stock and membership interest certificates) may be necessary in the reasonable opinion of the Collateral Agent to vest in the Collateral Agent (or in any representative of the Collateral Agent designated by it) valid Liens required by the Collateral and Guarantee Requirement, enforceable against all third parties in accordance with their terms, except as such enforceability may be limited by Debtor Relief Laws and by general principles of equity (regardless of whether enforcement is sought in equity or at law), and

- (ii) as promptly as practicable after the request therefor by the Collateral Agent, deliver to the Collateral Agent with respect to each Material Real Property, any existing title reports, surveys or environmental assessment reports.
- (b)
 - (i) the Borrower shall obtain the security interests and Guarantees set forth on Schedule 1.01A on or prior to the dates corresponding to such security interests and Guarantees set forth on Schedule 1.01A; and
 - (ii) after the Closing Date, promptly after the acquisition of any Material Real Property by any Loan Party, if such Material Real Property shall not already be subject to a perfected Lien pursuant to the Collateral and Guarantee Requirement, the Borrower shall give notice thereof to the Administrative Agent and promptly thereafter shall cause such real property to be subjected to a Lien to the extent required by the Collateral and Guarantee Requirement and will take, or cause the relevant Loan Party to take, such actions as shall be necessary or reasonably requested by the Administrative Agent or the Collateral Agent to grant and perfect or record such Lien, including, as applicable, the actions referred to in Section 6.13(b) and shall, within thirty (30) days (or forty-five (45) days with respect to any such acquisition by a Foreign Subsidiary) after the request therefor by the Administrative Agent or the Collateral Agent (or such longer period as the Administrative Agent may agree in its sole discretion), deliver to the Administrative Agent and the Collateral Agent a signed copy of an opinion of local counsel for such Loan Party in the jurisdiction of such Material Real Property, addressed to the Administrative Agent and the Collateral Agent and the other Secured Parties and reasonably acceptable to the Administrative Agent.

Section 6.12 Use of Proceeds.

Use the proceeds of any Borrowing, whether directly or indirectly, in a manner consistent with the uses set forth in the preliminary statements to this Agreement.

Section 6.13 Further Assurances and Post-Closing Conditions.

- (a) Promptly upon reasonable request by the Administrative Agent or the Collateral Agent (i) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Collateral Document or other document or instrument relating to any Collateral, and (ii) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent or the Collateral Agent may reasonably request from time to time in order to carry out more effectively the purposes of the Collateral Documents.
- (b) In the case of any Material Real Property, provide the Collateral Agent with Mortgages and otherwise satisfy the applicable Collateral and Guarantee Requirements with respect to such owned real property within thirty (30) days (or such longer period as the Collateral Agent may agree in its sole discretion) of the acquisition of such real property in each case together with:
 - (i) evidence that counterparts of the Mortgages have been duly executed, acknowledged and delivered and are in form suitable for filing or recording in all filing or recording offices that the Collateral Agent may deem reasonably necessary or desirable in order to create a valid and subsisting perfected Lien on the property and/or rights described therein in favor of the Collateral Agent for the benefit of the Secured Parties and that all filing and recording taxes and fees have been paid or otherwise provided for in a manner reasonably satisfactory to the Collateral Agent;
 - (ii) Mortgage Policies in form and substance, with endorsements and in amounts, reasonably acceptable to the Collateral Agent (not to exceed the value of the real properties covered thereby), issued, coinsured and reinsured by title insurers reasonably acceptable to the Collateral Agent, insuring the Mortgages to be valid subsisting Liens on the property described therein, free and clear of all defects and encumbrances, subject to Liens permitted by Section 7.01, and providing for such other affirmative insurance (including endorsements for future advances under the Loan Documents) and such coinsurance and direct access reinsurance as the Collateral Agent may reasonably request;
 - (iii) opinions of local counsel for the Loan Parties in states or provinces in which the real properties are located, with respect to the enforceability and perfection of the Mortgages and any related

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fixture filings in form and substance reasonably satisfactory to the Collateral Agent; and

- (iv) such other evidence that all other actions that the Administrative Agent and the Collateral Agent may reasonably deem necessary or desirable in order to create valid and subsisting Liens on the property described in the Mortgages has been taken.

Section 6.14 Designation of Subsidiaries.

The board of directors of the Borrower may at any time designate any Restricted Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary. The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Borrower therein at the date of designation in an amount equal to the net book value of the Borrower's investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute the incurrence at the time of designation of any Indebtedness or Liens of such Subsidiary existing at such time.

Section 6.15 Post-Closing Matters.

To the extent such items have not been delivered as of the Closing Date, within ninety (90) days after the Closing Date, unless waived or extended by the Administrative Agent in its sole discretion, the applicable Loan Party shall deliver to the Collateral Agent, with respect to the Mortgaged Properties listed on Schedule 6.15, the following:

- (i) duly executed and acknowledged Mortgages, financing statements and other instruments meeting the requirements of Section 4.01(a)(iii);
- (ii) a title policy meeting the requirements of Section 4.01(a)(x);
- (iii) evidence of payment of all applicable title insurance premiums, mortgage recording taxes, fees, charges, costs and expenses required for the recording of each Mortgage and issuance of the title policies as required by Section 4.01(a)(iv)(C); and
- (iv) favorable written opinions of local counsel in the provinces in which each such Mortgaged Property is located and any related fixture filings as required by Section 4.01(a)(iv)(B).

ARTICLE VII NEGATIVE COVENANTS

So long as any Lender shall have any Commitment hereunder, or any Loan or other Obligation hereunder which is accrued and payable shall remain unpaid or unsatisfied, the Borrower shall not, nor shall it permit any of its Restricted Subsidiaries to, directly or indirectly:

Section 7.01 Liens.

Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:

- (a) Liens pursuant to any Loan Document;
- (b) Liens pursuant to the First Lien Loan Documents; *provided that* such Liens are subject to the terms of the Intercreditor Agreement;
- (c) Liens existing on the date hereof; *provided that* any Lien securing Indebtedness in excess of (x) \$550,000 individually or (y) \$1,650,000 in the aggregate (when taken together with all other Liens securing obligations outstanding in reliance on this clause (b) that are not listed on Schedule 7.01(b)) shall only be permitted to the extent such Lien is listed on Schedule 7.01(b);
- (d) Liens for taxes, assessments or governmental charges which are not overdue for a period of more than thirty (30) days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person to the extent required in accordance with GAAP;
- (e) statutory or common law Liens of landlords, carriers, warehousemen, mechanics, materialmen, repairmen, construction contractors or other like Liens arising in the ordinary course of business which secure amounts not overdue for a period of more than thirty (30) days or if more than thirty (30) days overdue, are unfiled and no other action has been taken to enforce such Lien or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person to the extent required in accordance with GAAP;
- (f) (i) pledges or deposits in the ordinary course of business in connection with workers' compensation, unemployment insurance and other social security legislation and (ii) pledges and deposits in the ordinary course of business securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to the Borrower or any Restricted Subsidiary;
- (g) deposits to secure the performance of bids, trade contracts, governmental contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety, stay, customs and appeal bonds, performance bonds and other obligations of a like nature (including those to secure health, safety and environmental obligations) incurred in the ordinary course of business;

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- (h) easements, rights-of-way, restrictions, encroachments, protrusions and other similar encumbrances and minor title defects affecting real property which, in the aggregate, do not in any case materially interfere with the ordinary conduct of the business of the Borrower or any Material Subsidiary and any exception on the title policies issued in connection with the Mortgaged Property;
- (i) Liens securing judgments for the payment of money not constituting an Event of Default under Section 8.01(h);
- (j) Liens securing Indebtedness permitted under Section 7.03(f); provided that (i) such Liens attach concurrently with or within two hundred and seventy (270) days after the acquisition, construction, repair, replacement or improvement (as applicable) of the property subject to such Liens, (ii) such Liens do not at any time encumber any property other than the property financed by such Indebtedness, replacements thereof and additions and accessions to such property and the proceeds and the products thereof and customary security deposits and (iii) with respect to Capitalized Leases, such Liens do not at any time extend to or cover any assets (except for additions and accessions to such assets, replacements and products thereof and customary security deposits) other than the assets subject to such Capitalized Leases; provided that individual financings of equipment provided by one lender may be cross collateralized to other financings of equipment provided by such lender;
- (k) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business which do not (i) interfere in any material respect with the business of the Borrower or any Material Subsidiary, taken as a whole, or (ii) secure any Indebtedness;
- (l) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods in the ordinary course of business;
- (m) Liens (i) of a collection bank (including those arising under Section 4-210 of the Uniform Commercial Code) on the items in the course of collection, (ii) attaching to commodity trading accounts or other commodities brokerage accounts incurred in the ordinary course of business and (iii) in favor of a banking or other financial institution arising as a matter of law encumbering deposits or other funds maintained with a financial institution (including the right of set off) and which are within the general parameters customary in the banking industry;
- (n) Liens (i) on cash advances in favor of the seller of any property to be acquired in an Investment permitted pursuant to Section 7.02(j) or (o) to be applied against the purchase price for such Investment and (ii) consisting of an agreement to Dispose of any property in a Disposition permitted under Section 7.05, in each case, solely to the extent such

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Investment or Disposition, as the case may be, would have been permitted on the date of the creation of such Lien;

- (o) Liens on property of any Non-Loan Party securing Indebtedness incurred pursuant to Section 7.03(t) or (v);
- (p) Liens in favor of the Borrower or a Restricted Subsidiary securing Indebtedness permitted under Section 7.03(e);
- (q) Liens existing on property at the time of its acquisition or existing on the property of any Person at the time such Person becomes a Restricted Subsidiary (other than by designation as a Restricted Subsidiary pursuant to Section 6.14), in each case after the date hereof; *provided* that (i) such Lien was not created in contemplation of such acquisition or such Person becoming a Restricted Subsidiary, (ii) such Lien does not extend to or cover any other assets or property (other than the proceeds or products thereof and other than after-acquired property subjected to a Lien securing Indebtedness and other obligations incurred prior to such time and which Indebtedness and other obligations are permitted hereunder that require, pursuant to their terms at such time, a pledge of after-acquired property, it being understood that such requirement shall not be permitted to apply to any property to which such requirement would not have applied but for such acquisition), and (iii) the Indebtedness secured thereby is permitted under Section 7.03(f) or (h);
- (r) any interest or title of a lessor under leases entered into by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business;
- (s) Liens arising out of conditional sale, title retention, consignment or similar arrangements for sale of goods entered into by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business;
- (t) Liens deemed to exist in connection with Investments in repurchase agreements under Section 7.02 and reasonable customary initial deposits and margin deposits and similar Liens attaching to commodity trading accounts or other brokerage accounts maintained in the ordinary course of business and not for speculative purposes;
- (u) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks or other financial institutions not given in connection with the incurrence of Indebtedness, (ii) relating to pooled deposit or sweep accounts of the Borrower or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Borrower and its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered into with customers of the Borrower or any Restricted Subsidiary in the ordinary course of business;

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- (v) Liens solely on any cash earnest money deposits made by the Borrower or any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement permitted hereunder;
- (w) ground leases in respect of real property on which facilities owned or leased by the Borrower or any of its Subsidiaries are located;
- (x) Liens arising from precautionary Uniform Commercial Code or PPSA financing statement filings;
- (y) Liens on insurance policies and the proceeds thereof securing the financing of the premiums with respect thereto;
- (z) any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Borrower or any Material Subsidiary;
- (aa) Liens on specific items of inventory or other goods and the proceeds thereof securing such Person's obligations in respect of documentary letters of credit or banker's acceptances issued or created for the account of such Person to facilitate the purchase, shipment or storage of such inventory or goods;
- (bb) Liens securing letters of credit in a currency other than Canadian Dollars permitted under Section 7.03(p) in an aggregate amount at any time outstanding not to exceed \$16,500,000;
- (cc) [Reserved]
- (dd) Liens on assets of Restricted Subsidiaries that are not Loan Parties securing Indebtedness permitted pursuant to Section 7.03(n), (p) or (t);
- (ee) Liens on the Collateral (but not any other assets) securing Indebtedness permitted under Section 7.03(v); *provided*, that, to the extent such Liens are contemplated to be junior to the Liens securing the Obligations, such Liens shall be subject to an intercreditor agreement on customary terms;
- (ff) the modification, replacement, renewal or extension of any Lien permitted by clauses (c), (j) and (q) of this Section 7.01; *provided* that (i) the Lien does not extend to any additional property other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien or financed by corresponding Indebtedness permitted under Section 7.03, and (B) proceeds and products thereof, and (ii) the renewal, extension or refinancing of the obligations secured or benefited by such Liens is permitted by Section 7.03; and
- (gg) other Liens securing Indebtedness or other obligations in an aggregate principal amount at any time outstanding not to exceed \$16,500,000.

Section 7.02 Investments. Make any Investments, except:

- (a) Investments by the Borrower or a Restricted Subsidiary in assets that were Cash Equivalents when such Investment was made;
- (b) loans or advances to officers, directors and employees of Holdings (or any direct or indirect parent thereof), any Intermediate Holding Company, the Borrower or its Restricted Subsidiaries (i) for reasonable and customary business-related travel, entertainment, relocation and analogous ordinary business purposes, (ii) in connection with such Person's purchase of Equity Interests of Holdings (or any direct or indirect parent thereof or after a Qualifying IPO, any Intermediate Holding Company or the Borrower) (*provided* that the amount of such loans and advances shall be contributed to the Borrower in cash as common equity) and (iii) for purposes not described in the foregoing clauses (i) and (ii), in an aggregate principal amount outstanding not to exceed \$5,500,000;
- (c) asset purchases (including purchases of inventory, supplies and materials) and the licensing or contribution of intellectual property pursuant to joint marketing arrangements with other Persons, in each case in the ordinary course of business;
- (d) Investments (i) by any Loan Party in any other Loan Party, (ii) by any Non-Loan Party in any other Non-Loan Party that is a Restricted Subsidiary, (iii) by any Non-Loan Party in any Loan Party, (iv) by any Loan Party in any Non-Loan Party that is a Restricted Subsidiary; *provided* that all such Investments pursuant to this clause (iv) shall be in the form of intercompany loans and evidenced by notes that have been pledged (individually or pursuant to a global note) to the Collateral Agent for the benefit of the Lenders (*provided* that in order to comply with the laws and regulations of a jurisdiction where such Non-Loan Party is located or organized, Investments in an aggregate amount not to exceed \$38,500,000 at any one time outstanding may be structured as an equity contribution or otherwise in a form other than an intercompany loan);
- (e) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors and other credits to suppliers in the ordinary course of business;
- (f) Investments consisting of Liens, Indebtedness, fundamental changes, Dispositions and Restricted Payments permitted under Sections 7.01, 7.03, 7.04, 7.05 and 7.06, respectively;
- (g) Investments consisting of any modification, replacement, renewal, reinvestment or extension of any Investment existing on the date hereof; *provided* that the amount of any Investment permitted pursuant to this Section 7.02(g) is not increased from the amount of such Investment on

the Closing Date except pursuant to the terms of such Investment as of the Closing Date or as otherwise permitted by this Section 7.02;

- (h) Investments in Swap Contracts permitted under Section 7.03;
- (i) promissory notes and other noncash consideration received in connection with Dispositions permitted by Section 7.05;
- (j) the purchase or other acquisition of property and assets or businesses of any Person or of assets constituting a business unit, a line of business or division of such Person, or Equity Interests in a Person that, upon the consummation thereof, will be a Restricted Subsidiary of the Borrower (including as a result of a merger or consolidation); *provided that*, with respect to each purchase or other acquisition made pursuant to this Section 7.02(j) (each, a "Permitted Acquisition"), immediately before and immediately after giving Pro Forma Effect to any such purchase or other acquisition, no Default shall have occurred and be continuing;
- (k) the Transaction;
- (l) Investments in the ordinary course of business consisting of Article III endorsements for collection or deposit and Article IV customary trade arrangements with customers consistent with past practices;
- (m) Investments (including debt obligations and Equity Interests) received in connection with the bankruptcy or reorganization of suppliers and customers or in settlement of delinquent obligations of, or other disputes with, customers and suppliers arising in the ordinary course of business or upon the foreclosure with respect to any secured Investment or other transfer of title with respect to any secured Investment;
- (n) loans and advances to the Borrower (or any direct or indirect parent thereof) in lieu of, and not in excess of the amount of (after giving effect to any other such loans or advances or Restricted Payments in respect thereof), Restricted Payments to the extent permitted to be made to the Borrower (or such direct or indirect parent) in accordance with Section 7.06(f), (g) or (n);
- (o) so long as immediately after giving effect to any such Investment no Default has occurred and is continuing, other Investments that do not exceed \$40,000,000 in the aggregate, plus any return representing return of capital in respect of any such investment and valued at the time of the making thereof; *provided that* such amount shall be increased by (i) the Net Cash Proceeds of Permitted Equity Issuances that are Not Otherwise Applied and (ii) the Available Amount that is Not Otherwise Applied, *provided further that* the aggregate amount of such \$40,000,000 that may be used for the designation of a Restricted Subsidiary as an Unrestricted Subsidiary shall not exceed \$20,000,000, plus any return representing the

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return of capital in respect of any such Unrestricted Subsidiary and valued at the time of the making of any such designation;

- (p) advances of payroll payments to employees in the ordinary course of business;
- (q) Investments to the extent that payment for such Investments is made solely with Qualified Equity Interests of Holdings (or of the Borrower or any Intermediate Holding Company or any direct or indirect parent of Holdings after a Qualifying IPO of the Borrower, such Intermediate Holding Company or such direct or indirect parent of Holdings, as the case may be);
- (r) Investments held by a Restricted Subsidiary acquired after the Closing Date or of a corporation merged into the Borrower or merged or consolidated with a Restricted Subsidiary in accordance with Section 7.04 after the Closing Date to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger or consolidation and were in existence on the date of such acquisition, merger or consolidation;
- (s) Guarantee Obligations of the Borrower or any Restricted Subsidiary in respect of leases (other than Capitalized Leases) or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business;
- (t) **[Reserved]**
- (u) Investments constituting the non-cash portion of consideration received in a Disposition permitted by Section 7.05.

Section 7.03 Indebtedness.

Create, incur, assume or suffer to exist any Indebtedness, except:

- (a) Indebtedness of the Borrower and any of its Subsidiaries under the Loan Documents;
- (b) Indebtedness of the Borrower and any of its Subsidiaries under the First Lien Loan Documents and any Permitted Refinancing thereof;
- (c) (i) Indebtedness outstanding on the date hereof and listed on Schedule 7.03(c) and any Permitted Refinancing thereof and (ii) intercompany Indebtedness outstanding on the date hereof;
- (d) Guarantee Obligations of the Borrower and its Restricted Subsidiaries in respect of Indebtedness of the Borrower or any Restricted Subsidiary otherwise permitted hereunder (except that a Restricted Subsidiary that is not a Loan Party may not, by virtue of this Section 7.03(d), guarantee Indebtedness that such Restricted Subsidiary could not otherwise incur

under this Section 7.03); *provided* that, if the Indebtedness being guaranteed is subordinated to the Obligations, such Guarantee Obligation shall be subordinated to the Guarantee of the Obligations on terms at least as favorable to the Lenders as those contained in the subordination of such Indebtedness;

- (e) Indebtedness of the Borrower or any Restricted Subsidiary owing to the Borrower or any other Restricted Subsidiary to the extent constituting an Investment permitted by Section 7.02; *provided* that all such Indebtedness of any Loan Party owed to any Person that is not a Loan Party shall be subject to the subordination terms set forth in Section 8.03(b) of the Security Agreement;
- (f) (i) Attributable Indebtedness and other Indebtedness (including Capitalized Leases) financing the acquisition, construction, repair, replacement or improvement of fixed or capital assets; *provided* that such Indebtedness is incurred concurrently with or within two hundred and seventy (270) days after the applicable acquisition, construction, repair, replacement or improvement, (ii) Attributable Indebtedness arising out of Permitted Sale Leasebacks and (iii) any Permitted Refinancing of any Indebtedness set forth in the immediately preceding clauses (i) and (ii);
- (g) Indebtedness in respect of Swap Contracts designed to hedge against interest rates, foreign exchange rates or commodities pricing risks incurred in the ordinary course of business and not for speculative purposes;
- (h) Indebtedness assumed in connection with any Permitted Acquisition, *provided* that (x) such Indebtedness (i) was not incurred in contemplation of such Permitted Acquisition, (ii) is secured only by the assets acquired in the applicable Permitted Acquisition (including any acquired Equity Interests), (iii) the only obligors with respect to any Indebtedness incurred pursuant to this clause (h) shall be those Persons who were obligors of such Indebtedness prior to such Permitted Acquisition, and (y) both immediately prior and after giving effect thereto no Default shall exist or result therefrom;
- (i) Indebtedness representing deferred compensation to employees of the Borrower (or any direct or indirect parent of the Borrower) and its Restricted Subsidiaries incurred in the ordinary course of business;
- (j) Indebtedness to current or former officers, directors, managers, consultants and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of Holdings (or any direct or indirect parent thereof) permitted by Section 7.06;
- (k) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries in a Permitted Acquisition, any other Investment expressly permitted hereunder or any Disposition, in each case to the extent

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constituting indemnification obligations or obligations in respect of purchase price (including earn-outs) or other similar adjustments;

- (l) Indebtedness consisting of obligations of the Borrower or any of its Restricted Subsidiaries under deferred compensation or other similar arrangements incurred by such Person in connection with the Transaction and Permitted Acquisitions or any other Investment expressly permitted hereunder;
- (m) Cash Management Obligations and other Indebtedness in respect of netting services, automatic clearinghouse arrangements, overdraft protections and similar arrangements in each case in connection with deposit accounts incurred in the ordinary course;
- (n) Indebtedness in an aggregate principal amount not to exceed \$55,000,000 at any time outstanding; *provided* that the aggregate principal amount of such Indebtedness incurred by Non-Loan Parties pursuant to this clause (n), when aggregated with the principal amount of Indebtedness incurred pursuant to clause (t) below and then outstanding, does not exceed the greater of \$27,500,000 and 11% of Non-Loan Party Total Assets at any time;
- (o) Indebtedness consisting of (a) the financing of insurance premiums or (b) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;
- (p) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries in respect of letters of credit, bank guarantees, banker's acceptances, warehouse receipts or similar instruments issued or created in the ordinary course of business, including in respect of workers compensation claims, health, disability or other employee benefits or property, casualty or liability insurance or self-insurance or other Indebtedness with respect to reimbursement-type obligations regarding workers compensation claims;
- (q) obligations in respect of performance, bid, appeal and surety bonds and performance and completion guarantees and similar obligations provided by the Borrower or any of its Restricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or similar instruments related thereto, in each case in the ordinary course of business or consistent with past practice;
- (r) **[Reserved]**
- (s) Indebtedness supported by a letter of credit issued under the First Lien Credit Agreement, in a principal amount not to exceed the face amount of such letter of credit;

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- (t) Indebtedness incurred by a Non-Loan Party which, when aggregated with the principal amount of all other Indebtedness incurred pursuant to this clause (t) and Section 7.03(n) by Non-Loan Parties and then outstanding, does not exceed the greater of \$27,500,000 and 11% of Non-Loan Party Total Assets;
- (u) unsecured Indebtedness of the Borrower or any Restricted Subsidiary; *provided that*, (i) both immediately prior to and after giving Pro Forma Effect to such incurrence, no Default shall exist or result therefrom, and (ii) after giving Pro Forma Effect to the incurrence of such Indebtedness, the Fixed Charge Coverage Ratio (calculated on a Pro Forma Basis) would be not less than 1.75:1.0.
- (v) other secured Indebtedness of the Borrower or any Restricted Subsidiary; *provided that*, (i) both immediately prior to and after giving effect thereto, no Default shall exist or result therefrom, and (ii) after giving effect to the incurrence of such Indebtedness either (1) the Senior Secured Incurrence Test (calculated on a Pro Forma Basis) would have been satisfied or (2) the Senior Secured Leverage Ratio (calculated on a Pro Forma Basis) would be no greater than the Senior Secured Leverage Ratio in effect immediately prior to such incurrence;
- (w) Indebtedness of the Borrower with respect to the Shareholder Subordinated Note; and
- (x) all premiums (if any), interest (including post-petition interest), fees, expenses, charges and additional or contingent interest on obligations described in clauses (a) through (w) above.

For purposes of determining compliance with any Dollar-denominated restriction on the incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the case of revolving credit debt; *provided that* if such Indebtedness is incurred to extend, replace, refund, refinance, renew or defease other Indebtedness denominated in a foreign currency, and such extension, replacement, refunding, refinancing, renewal or defeasance would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such extension, replacement, refunding, refinancing, renewal or defeasance, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the principal amount of such Indebtedness being extended, replaced, refunded, refinanced, renewed or defeased.

For purposes of determining compliance with this Section 7.03, in the event that an item of Indebtedness meets the criteria of more than one of the categories of Indebtedness described in clauses (a) through (x) above, the Borrower shall, in its sole discretion, classify and reclassify or later divide, classify or reclassify such item of Indebtedness (or any portion thereof) and will only be required to include the amount and type of such Indebtedness in one or more of the

above clauses; *provided* that all Indebtedness outstanding under the Loan Documents will be deemed to have been incurred in reliance only on the exception in clause (a) of Section 7.03.

The accrual of interest, the accretion of accreted value and the payment of interest in the form of additional Indebtedness shall not be deemed to be an incurrence of Indebtedness for purposes of this Section 7.03.

Section 7.04 Fundamental Changes.

Merge, amalgamate, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that:

- (a) any Restricted Subsidiary may merge or amalgamate with (i) the Borrower (including a merger, the purpose of which is to reorganize the Borrower into a new jurisdiction); *provided* that (x) the Borrower shall be the continuing or surviving Person, and (y) such merger or amalgamation does not result in the Borrower ceasing to be incorporated under the Laws of Canada or any province thereof or (ii) any one or more other Restricted Subsidiaries; *provided* that when any Restricted Subsidiary that is a Loan Party is merging or amalgamating with another Restricted Subsidiary, a Loan Party shall be the continuing or surviving Person;
- (b) (i) any Subsidiary that is not a Loan Party may merge, amalgamate or consolidate with or into any other Subsidiary that is not a Loan Party and (ii) (A) any Subsidiary may liquidate or dissolve or (B) the Borrower or any Subsidiary may change its legal form, in each case, if the relevant Person determines in good faith that such action is in the best interests of the Borrower and its Subsidiaries and is not materially disadvantageous to the Lenders;
- (c) any Restricted Subsidiary may Dispose of all or substantially all of its assets (upon voluntary liquidation or otherwise) to another Restricted Subsidiary; *provided* that if the transferor in such a transaction is a Loan Party, then (i) the transferee must be a Loan Party or (ii) to the extent constituting an Investment, such Investment must be a permitted Investment in or Indebtedness of a Restricted Subsidiary which is not a Loan Party in accordance with Sections 7.02 and 7.03, respectively;
- (d) so long as no Default exists or would result therefrom, the Borrower may merge or amalgamate with any other Person; *provided* that (i) the Borrower shall be the continuing or surviving corporation or (ii) if the Person formed by or surviving any such merger or amalgamation is not the Borrower (any such Person, the "**Successor Borrower**"), (A) the Successor Borrower shall be an entity organized or existing under the laws of Canada or any province or territory thereof, (B) the Successor Borrower shall expressly assume all the obligations of the Borrower under this Agreement and the other Loan Documents to which the Borrower is a party pursuant to a supplement hereto or thereto in form reasonably

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satisfactory to the Administrative Agent, (C) each Guarantor, unless it is the other party to such merger or consolidation, shall have by a supplement to the Guaranty confirmed that its Guarantee shall apply to the Successor Borrower's obligations under this Agreement, (D) each Loan Party, unless it is the other party to such merger or consolidation, shall have by a supplement to the Security Agreement confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement, (E) each mortgagor of a Mortgaged Property, unless it is the other party to such merger or consolidation, shall have by an amendment to or restatement of the applicable Mortgage (or other instrument reasonably satisfactory to the Administrative Agent) confirmed that its obligations thereunder shall apply to the Successor Borrower's obligations under this Agreement, and (F) the Borrower shall have delivered to the Administrative Agent an officer's certificate and an opinion of counsel, each stating that such merger or amalgamation and such supplement to this Agreement or any other Loan Document comply with this Agreement; *provided further* that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the Borrower under this Agreement;

- (e) so long as no Default exists or would result therefrom, any Restricted Subsidiary may merge or amalgamate with any other Person in order to effect an Investment permitted pursuant to Section 7.02; provided that the continuing or surviving Person shall be a Restricted Subsidiary, which together with each of its Restricted Subsidiaries, shall have complied with the requirements of Section 6.11;
- (f) so long as no Default exists or would result therefrom and no material assets have been transferred to such Subsidiaries from the Borrower or any Subsidiary thereof from the Closing Date to the date of such dissolution or liquidation, the Subsidiaries listed on Schedule 7.04(f) may be dissolved or liquidated;
- (g) the Acquisition may be consummated; and
- (h) so long as no Default exists or would result therefrom, a merger, amalgamation, dissolution, liquidation, consolidation or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 7.05.

Section 7.05 Dispositions.

Make any Disposition or enter into any agreement to make any Disposition, except:

- (a) Dispositions of obsolete, worn out or surplus property, whether now owned or hereafter acquired, in the ordinary course of business and Dispositions of property no longer used or useful in the conduct of the business of the Borrower and its Restricted Subsidiaries;

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- (b) Dispositions of inventory and immaterial assets in the ordinary course of business (including allowing any registrations or any applications for registration of any immaterial IP Rights to lapse or go abandoned in the ordinary course of business);
- (c) Dispositions of property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property that is promptly purchased or (ii) the proceeds of such Disposition are promptly applied to the purchase price of such replacement property (which replacement property is actually promptly purchased);
- (d) Dispositions of property to the Borrower or a Restricted Subsidiary; *provided* that if the transferor of such property is a Loan Party (i) the transferee thereof must be a Loan Party or (ii) to the extent such transaction constitutes an Investment, such transaction is permitted under Section 7.02;
- (e) Dispositions permitted by Sections 7.02, 7.04 and 7.06 and Liens permitted by Section 7.01;
- (f) Permitted Sale Leasebacks;
- (g) Dispositions in the ordinary course of business of Cash Equivalents;
- (h) leases, subleases, licenses or sublicenses, in each case in the ordinary course of business and which do not materially interfere with the business of the Borrower and its Restricted Subsidiaries, taken as a whole;
- (i) transfers of property subject to Casualty Events upon receipt of the Net Cash Proceeds of such Casualty Event;
- (j) Dispositions of property not otherwise permitted under this Section 7.05; *provided* that the Borrower or its applicable Restricted Subsidiaries, as the case may be, has complied with Section 2.06(b)(ii) with respect thereto;
- (k) Dispositions listed on Schedule 7.05(k) ("**Scheduled Dispositions**");
- (l) Dispositions of Investments in joint ventures to the extent required by, or made pursuant to customary buy/sell arrangements between, the joint venture parties set forth in joint venture arrangements and similar binding arrangements;
- (m) Dispositions of accounts receivable in the ordinary course of business in connection with the collection or compromise thereof;
- (n) any issuance or sale of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary; and
- (o) the unwinding of any Swap Contract pursuant to its terms;

(p) [Reserved]

To the extent any Collateral is Disposed of as expressly permitted by this Section 7.05 to any Person other than the Borrower or any Restricted Subsidiary, such Collateral shall be sold free and clear of the Liens created by the Loan Documents, and, if requested by the Administrative Agent, upon the certification by the Borrower that such Disposition is permitted by this Agreement, the Administrative Agent or the Collateral Agent, as applicable, shall be authorized to take and shall take any actions deemed appropriate in order to effect the foregoing.

Section 7.06 Restricted Payments.

Declare or make, directly or indirectly, any Restricted Payment, except:

- (a) each Restricted Subsidiary may make Restricted Payments to the Borrower and to other Restricted Subsidiaries (and, in the case of a Restricted Payment by a non-wholly owned Restricted Subsidiary, to the Borrower and any other Restricted Subsidiary and to each other owner of Equity Interests of such Restricted Subsidiary based on their relative ownership interests of the relevant class of Equity Interests);
- (b) (i) the Borrower may (or may make Restricted Payments to permit any direct or indirect parent thereof to) redeem in whole or in part any of its Equity Interests for another class of its (or such parent's) Equity Interests or rights to acquire its Equity Interests or with proceeds from substantially concurrent equity contributions or issuances of new Equity Interests; provided any Restricted Payment made to any such direct or indirect parent of the Borrower pursuant to this Section 7.06(b)(i) shall be made with proceeds from substantially concurrent equity contributions or issuances of new Equity Interests; provided, further, that any terms and provisions material to the interests of the Lenders, when taken as a whole, contained in such other class of Equity Interests are at least as advantageous to the Lenders as those contained in the Equity Interests redeemed thereby and (ii) the Borrower and each Restricted Subsidiary may declare and make dividend payments or other distributions payable solely in the Equity Interests (other than Disqualified Equity Interests not otherwise permitted by Section 7.03) of such Person;
- (c) Restricted Payments made on the Closing Date to consummate the Transaction;
- (d) to the extent constituting Restricted Payments, the Borrower and its Restricted Subsidiaries may enter into and consummate transactions expressly permitted by any provision of Section 7.02, 7.04 or 7.08 (other than Section 7.08(f));
- (e) repurchases of Equity Interests in the Borrower (or any direct or indirect parent thereof) or any Restricted Subsidiary deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

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- (f) the Borrower or any Restricted Subsidiary may pay (or make Restricted Payments to allow any direct or indirect parent thereof to pay) for the repurchase, retirement or other acquisition or retirement for value of Equity Interests of it or any direct or indirect parent thereof held by any future, present or former employee, director, officer or consultant (or any Affiliates, spouses, former spouses, other immediate family members, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) of the Borrower (or any direct or indirect parent of the Borrower) or any of its Subsidiaries pursuant to any employee, management or director equity plan, employee, management or director stock option plan or any other employee, management or director benefit plan or any agreement (including any stock subscription or shareholder agreement) with any employee, director, officer or consultant of Holdings (or any direct or indirect parent thereof), any Intermediate Holding Company, the Borrower or any Subsidiary; *provided* that cancellation of Indebtedness owing to the Borrower (or any direct or indirect parent thereof) or any of its Subsidiaries from members of management of the Borrower, any of the Borrower's direct or indirect parent companies or any of the Borrower's Restricted Subsidiaries in connection with a repurchase of Equity Interests of any of the Borrower's direct or indirect parent companies will not be deemed to constitute a Restricted Payment for purposes of this covenant or any other provision of this Agreement.
- (g) the Borrower and its Restricted Subsidiaries may make Restricted Payments to any direct or indirect holder of an Equity Interest in the Borrower:
- (i) the proceeds of which will be used to pay the tax liability to each relevant jurisdiction attributable to the income of the Borrower or its Subsidiaries determined as if the Borrower and its Subsidiaries filed separately;
 - (ii) the proceeds of which shall be used to pay such equity holder's operating costs and expenses incurred in the ordinary course of business, other corporate overhead costs and expenses and fees (including administrative, legal, accounting and similar expenses provided by third parties as well as trustee, directors and general partner fees) which are reasonable and customary and incurred in the ordinary course of business and attributable to the ownership or operations of the Borrower and its Subsidiaries (including any reasonable and customary indemnification claims made by directors or officers of any direct or indirect parent of the Borrower attributable to the direct or indirect ownership or operations of the Borrower and its Subsidiaries) and fees and expenses otherwise due and payable by the Borrower or any Restricted Subsidiary and permitted to be paid by the Borrower or such Restricted Subsidiary under this Agreement;

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- (iii) the proceeds of which shall be used to pay franchise and excise taxes and other fees, taxes and expenses required to maintain its (or any of its direct or indirect parents') corporate existence;
- (iv) to finance any Investment permitted to be made pursuant to Section 7.02; *provided* that (A) such Restricted Payment shall be made substantially concurrently with the closing of such Investment and (B) the Borrower or such parent shall, immediately following the closing thereof, cause (1) all property acquired (whether assets or Equity Interests) to be held by or contributed to a Restricted Subsidiary or (2) the merger (to the extent permitted in Section 7.04) of the Person formed or acquired into it or a Restricted Subsidiary in order to consummate such Permitted Acquisition, in each case, in accordance with the requirements of Section 6.11;
- (v) the proceeds of which shall be used to pay customary costs, fees and expenses (other than to Affiliates) related to any unsuccessful equity or debt offering permitted by this Agreement;
- (vi) the proceeds of which shall be used to pay customary salary, bonus and other benefits payable to officers and employees of any direct or indirect parent company of the Borrower to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Borrower and its Restricted Subsidiaries;
- (vii) the proceeds of which shall be used to pay withholding and other taxes imposed in connection with the Shareholder Subordinated Note or the shareholder loans owing by Holdings to TN Holdings LP;
- (h) the Borrower or any Restricted Subsidiary may (a) pay cash in lieu of fractional Equity Interests in connection with any dividend, split or combination thereof or any Permitted Acquisition and (b) honor any conversion request by a holder of convertible Indebtedness and make cash payments in lieu of fractional shares in connection with any such conversion and may make payments on convertible Indebtedness in accordance with its terms;
- (i) the Borrower or any Restricted Subsidiary may pay any dividend or distribution within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Agreement;
- (j) the declaration and payment of dividends on the Borrower's common stock following the first public offering of the Borrower's common stock or the common stock (or equivalent thereof) of any direct or indirect holders of Equity Interests in the Borrower after the Closing Date, of up to

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6.5% per annum of the Net Cash Proceeds received by or contributed to the Borrower in or from any such public offering to the extent such Net Cash Proceeds are Not Otherwise Applied;

- (k) the Borrower or any Restricted Subsidiary may make Restricted Payments in an amount equal to withholding or similar Taxes payable or expected to be payable by any future, present or former employee, director, manager or consultant (or any Affiliates, spouses, former spouses, other immediate family members, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) and any repurchases of Equity Interests in consideration of such payments including deemed repurchases in connection with the exercise of stock options;
- (l) [Reserved];
- (m) [Reserved]; and
- (n) the Borrower may make additional Restricted Payments in an aggregate amount, together with the amount of loans and advances to any direct or indirect parent of the Borrower made pursuant to Section 7.02(n) in lieu of Restricted Payments permitted by this clause (n), not to exceed the sum of (i)(A) \$15,000,000 at all times when the Adjusted Senior Secured Leverage Ratio is greater than 4.00:1.00 or (B) \$25,000,000 when the Adjusted Senior Secured Leverage Ratio is less than or equal to 4.00:1.00, in each case determined on a Pro Forma Basis for the Restricted Payment, (ii) the aggregate amount of the Net Cash Proceeds of Permitted Equity Issuances that are Not Otherwise Applied and (iii) the Available Amount that is Not Otherwise Applied.

Section 7.07 Change in Nature of Business.

Engage in any material line of business substantially different from those lines of business conducted by the Borrower and its Restricted Subsidiaries on the date hereof or any business reasonably related or ancillary thereto.

Section 7.08 Transactions with Affiliates.

Enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than

- (a) transactions between or among the Borrower or any Restricted Subsidiary or any entity that becomes a Restricted Subsidiary as a result of such transaction;
- (b) transactions on terms substantially as favorable to the Borrower or such Restricted Subsidiary as would be obtainable by the Borrower or such Restricted Subsidiary at the time in a comparable arm's-length transaction with a Person other than an Affiliate;

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- (c) the Transaction and the payment of fees and expenses related to the Transaction;
- (d) the issuance of Equity Interests to any officer, director, employee or consultant of the Borrower or any of its Subsidiaries or any direct or indirect parent of the Borrower in connection with the Transaction;
- (e) the payment of management and monitoring fees to the Sponsor in an aggregate amount in any fiscal year not to exceed the amount permitted to be paid pursuant to the Sponsor Management Agreement as in effect on the date hereof and any Sponsor Termination Fees not to exceed the amount set forth in the Sponsor Management Agreement as in effect on the date hereof and related indemnities and reasonable expenses;
- (f) equity issuances, repurchases, redemptions, retirements or other acquisitions or retirements of Equity Interests by the Borrower or any Restricted Subsidiary permitted under Section 7.06;
- (g) loans and other transactions by and among the Borrower and/or one or more Subsidiaries to the extent permitted under this Article VII;
- (h) employment and severance arrangements between the Borrower and its Subsidiaries and their respective officers and employees in the ordinary course of business and transactions pursuant to stock option plans and employee benefit plans and arrangements;
- (i) payments by the Borrower (and any direct or indirect parent thereof) and its Restricted Subsidiaries pursuant to the tax sharing agreements among the Borrower (and any such direct or indirect parent thereof) and its Restricted Subsidiaries on customary terms to the extent attributable to the ownership or operation of the Borrower and its Restricted Subsidiaries;
- (j) the payment of customary fees and reasonable out of pocket costs to, and indemnities provided on behalf of, directors, officers, employees and consultants of the Borrower and its Restricted Subsidiaries or any direct or indirect parent of the Borrower in the ordinary course of business to the extent attributable to the ownership or operation of the Borrower and its Restricted Subsidiaries;
- (k) transactions pursuant to permitted agreements in existence on the Closing Date and set forth on Schedule 7.08 or any amendment thereto to the extent such an amendment is not adverse to the Lenders in any material respect;
- (l) dividends permitted under Section 7.06; and
- (m) customary payments by the Borrower and any Restricted Subsidiaries to the Sponsor made for any financial advisory, financing, underwriting or placement services or in respect of other investment banking activities

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(including in connection with acquisitions or divestitures), which payments are approved by the majority of the members of the board of directors or a majority of the disinterested members of the board of directors of the Borrower in good faith.

(n) [Reserved]

ARTICLE VIII EVENTS OF DEFAULT AND REMEDIES

Section 8.01 Events of Default.

Any of the following events referred to in any of clauses (a) through (m) inclusive of this Section 8.01 shall constitute an "Event of Default":

- (a) *Non-Payment.* Any Loan Party fails to pay (i) when and as required to be paid herein, any amount of principal of any Loan or (ii) within seven (7) Business Days after the same becomes due, any interest on any Loan or any other amount payable hereunder or with respect to any other Loan Document; or
- (b) *Specific Covenants.* The Borrower fails to perform or observe any term, covenant or agreement contained in any of Sections 6.03(a) or 6.05(a) (solely with respect to the Borrower) or Article VII; or
- (c) *Other Defaults.* Any Loan Party fails to perform or observe any other covenant or agreement (not specified in Section 8.01(a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for forty-five (45) days after receipt by the Borrower of written notice thereof by the Administrative Agent or the Required Lenders; or
- (d) *Representations and Warranties.* Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of any Loan Party herein, in any other Loan Document, or in any document required to be delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made; or
- (e) *Cross-Default; Cross-Acceleration.* Any Loan Party or any Restricted Subsidiary (A) fails to make any payment beyond the applicable grace period with respect thereto, if any (whether by scheduled maturity, required prepayment, acceleration, demand, or otherwise) in respect of any Indebtedness (other than Indebtedness hereunder and the Indebtedness under the First Lien Loan Documents) having an aggregate principal amount of not less than the Threshold Amount; (B) fails to observe or perform any other agreement or condition relating to any such Indebtedness, or any other event occurs (other than, with respect to Indebtedness consisting of Swap Agreements, termination events or

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equivalent events pursuant to the terms of such Swap Agreements), the effect of which default or other event is to cause, or to permit the holder or holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders or beneficiary or beneficiaries) to cause, with the giving of notice if required, such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity; *provided* that this clause (e)(B) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; *provided further* that such failure is unremedied and is not waived by the holders of such Indebtedness or (C) fails to observe or perform any other agreement or condition relating to any Indebtedness under the First Lien Loan Documents, or any other event occurs (other than, with respect to Indebtedness consisting of Swap Agreements, termination events or equivalent events pursuant to the terms of such Swap Agreements), the effect of which default or other event is to cause, with the giving of notice if required, such Indebtedness to become due or to be repurchased, prepaid, defeased or redeemed (automatically or otherwise) and/or to be secured by cash collateral, or an offer to repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity; or

- (f) *Insolvency Proceedings, Etc.* Any Loan Party or any of the Restricted Subsidiaries institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, interim receiver, receiver and manager, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer for it or for all or any material part of its property; or any receiver, interim receiver, receiver and manager, trustee, custodian, conservator, liquidator, rehabilitator, administrator, administrative receiver or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for seventy-five (75) calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for seventy-five (75) calendar days; or an order for relief is entered in any such proceeding; or
- (g) *Inability to Pay Debts; Attachment.* (i) Any Loan Party or any Restricted Subsidiary becomes unable or admits in writing its inability or fails generally to pay its debts in excess of the Threshold Amount as they become due, or (ii) any writ or warrant of attachment or execution or similar process is issued or levied against all or any material part of the property of the Loan Parties, taken as a whole, and is not released, vacated or fully bonded within seventy-five (75) days after its issue or levy; or

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- (h) *Judgments.* There is entered against any Loan Party or any Restricted Subsidiary a final judgment or order for the payment of money in an aggregate amount exceeding the Threshold Amount (to the extent not covered by independent third-party insurance) and such judgment or order shall not have been satisfied, vacated, discharged or stayed or bonded pending an appeal for a period of seventy-five (75) consecutive days; or
- (i) *Pension Plans.* Any Loan Party or any Restricted Subsidiary shall have failed to make any required contribution when due in accordance with applicable laws or regulations with respect to a Canadian Pension Plan or any other event shall have occurred, giving rise to a lien (statutory or otherwise), against, or deemed trust in respect of, any of the assets of any Loan Party or any Restricted Subsidiary in respect of a Canadian Pension Plan where such failure or lien could reasonably be expected to result in a Material Adverse Effect; or
- (j) *Invalidity of Collateral Documents.* Any material provision of any Collateral Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder (including as a result of a transaction permitted under Section 7.04 or 7.05) or as a result of acts or omissions by the Administrative Agent or any Lender or the satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party contests in writing the validity or enforceability of any material provision of any Collateral Document; or any Loan Party denies in writing that it has any or further liability or obligation under any Collateral Document (other than as a result of repayment in full of the Obligations and termination of the Aggregate Commitments), or purports in writing to revoke or rescind any Collateral Document; or
- (k) *Change of Control.* There occurs any Change of Control; or
- (l) (i) Any Collateral Document after delivery thereof pursuant to Section 4.01 or 6.11 shall for any reason (other than pursuant to the terms hereof or thereof including as a result of a transaction permitted under Section 7.04 or 7.05) cease to create a valid and perfected lien, with the priority required by the Collateral Documents (or other security purported to be created on the applicable Collateral) on and security interest in any material portion of the Collateral purported to be covered thereby, subject to Liens permitted under Section 7.01, except to the extent that any such loss of perfection or priority results from the failure of the Administrative Agent or the Collateral Agent to maintain possession of certificates actually delivered to it representing securities pledged under the Collateral Documents or to file Uniform Commercial Code or PPSA continuation statements and except as to Collateral consisting of real property to the extent that such losses are covered by a lender's title insurance policy and such insurer has not denied or failed to acknowledge coverage, or (ii) any of the Equity Interests of the Borrower ceasing to be pledged pursuant to the Security Agreement free of Liens other than Liens created by the

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Security Agreement or any nonconsensual Liens arising solely by operation of Law and, in the case of any of the foregoing, such event or circumstance continues for forty-five (45) days after receipt by the Borrower of written notice thereof by the Administrative Agent or the Required Lenders; or

- (m) the Borrower shall fail to make an Offer to Prepay required pursuant to Section 2.06(b)(ii).

Section 8.02 Remedies Upon Event of Default.

If any Event of Default occurs and is continuing, the Administrative Agent may and, at the request of the Required Lenders, shall take any or all of the following actions:

- (a) declare the commitment of each Lender to make Loans to be terminated, whereupon such commitments and obligation shall be terminated;
- (b) declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrower; and
- (c) exercise on behalf of itself and the Lenders all rights and remedies available to it and the Lenders under the Loan Documents or applicable Law;

provided that upon the occurrence of an Event of Default under Section 8.01(f) with respect to the Borrower, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable without further act of the Administrative Agent or any Lender.

Section 8.03 Exclusion of Immaterial Subsidiaries.

Solely for the purpose of determining whether a Default has occurred under clause (f) or (g) of Section 8.01, any reference in any such clause to any Restricted Subsidiary or Loan Party shall be deemed not to include any Restricted Subsidiary affected by any event or circumstances referred to in any such clause that is not a Material Subsidiary (it being agreed that all Restricted Subsidiaries affected by any event or circumstance referred to in any such clause shall be considered together, as a single consolidated Restricted Subsidiary, for purposes of determining whether the condition specified above is satisfied).

Section 8.04 Application of Funds.

After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable as set forth in the proviso to Section 8.02), including in any bankruptcy or insolvency proceeding, any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

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First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal and interest, but including Attorney Costs payable under Section 10.04 and amounts payable under Article III) payable to each Agent in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including Attorney Costs payable under Section 10.04 and amounts payable under Article III), ratably among them in proportion to the amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid interest (including, but not limited to, post-petition interest) on the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, ratably among the Secured Parties in proportion to the respective amounts described in this clause Fourth held by them;

Fifth, to the payment of all other Obligations of the Loan Parties that are due and payable to the Administrative Agent and the other Secured Parties on such date, ratably based upon the respective aggregate amounts of all such Obligations owing to the Administrative Agent and the other Secured Parties on such date; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrower or as otherwise required by Law.

ARTICLE IX ADMINISTRATIVE AGENT AND OTHER AGENTS

Section 9.01 Appointment and Authorization of Agents.

- (a) Each Lender hereby irrevocably appoints, designates and authorizes the Administrative Agent to take such action on its behalf under the provisions of this Agreement and each other Loan Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any other Loan Document, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere herein or in any other Loan Document, the Administrative Agent shall have no duties or responsibilities, except those expressly set forth herein, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" herein and in the other Loan Documents with reference to any Agent is not intended to connote

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any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

- (b) The Administrative Agent shall also act as the "collateral agent" under the Loan Documents, and each of the Lenders (in its capacity as a Lender) hereby irrevocably appoints and authorizes the Administrative Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or on trust for) such Lender for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Administrative Agent, as "collateral agent" (and any co-agents, sub-agents and attorneys-in-fact appointed by the Administrative Agent pursuant to Section 9.02 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Administrative Agent), shall be entitled to the benefits of all provisions of this Article IX (including Section 9.07, as though such co-agents, sub-agents and attorneys-in-fact were the "collateral agent" under the Loan Documents) as if set forth in full herein with respect thereto.

Section 9.02 Delegation of Duties.

The Administrative Agent may execute any of its duties under this Agreement or any other Loan Document (including for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents or of exercising any rights and remedies thereunder) by or through Affiliates, agents, employees or attorneys-in-fact, such sub-agents as shall be deemed necessary by the Administrative Agent, and shall be entitled to advice of counsel, both internal and external, and other consultants or experts concerning all matters pertaining to such duties. The Administrative Agent shall not be responsible for the negligence or misconduct of any agent or sub-agent or attorney-in-fact that it selects in the absence of gross negligence or willful misconduct (as determined in the final judgment of a court of competent jurisdiction).

Section 9.03 Liability of Agents.

No Agent-Related Person shall (a) be liable to any Lender for any action taken or omitted to be taken by any of them under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby (except for its own gross negligence or willful misconduct, as determined by the final judgment of a court of competent jurisdiction, in connection with its duties expressly set forth herein), or (b) be responsible in any manner to any Lender or participant for any recital, statement, representation or warranty made by any Loan Party or any officer thereof, contained herein or in any other Loan Document, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement or any other Loan Document, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any

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other Loan Document, or the perfection or priority of any Lien or security interest created or purported to be created under the Collateral Documents, or for any failure of any Loan Party or any other party to any Loan Document to perform its obligations hereunder or thereunder. No Agent-Related Person shall be under any obligation to any Lender or participant to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party or any Affiliate thereof.

Section 9.04 Reliance by Agents.

- (a) Each Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, communication, signature, resolution, representation, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex or telephone message, electronic mail message, statement or other document or conversation believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel (including counsel to any Loan Party), independent accountants and other experts selected by such Agent. Each Agent shall be fully justified in failing or refusing to take any action under any Loan Document unless it shall first receive such advice or concurrence of the Required Lenders as it deems appropriate and, if it so requests, it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Each Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement or any other Loan Document in accordance with a request or consent of the Required Lenders (or such greater number of Lenders as may be expressly required hereby in any instance) and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders.
- (b) For purposes of determining compliance with the conditions specified in Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Closing Date specifying its objection thereto.

Section 9.05 Notice of Default.

The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default, except with respect to defaults in the payment of principal, interest and fees required to be paid to the Administrative Agent for the account of the Lenders, unless the Administrative Agent shall have received written notice from a Lender or the Borrower referring to this Agreement, describing such Default and stating that such notice is a "notice of default". The Administrative Agent will notify the Lenders of its receipt of any such notice. The Administrative Agent shall take such action with respect to any Event of Default as may be directed by the Required Lenders in accordance with Article VIII; *provided* that unless and until

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the Administrative Agent has received any such direction, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Event of Default as it shall deem advisable or in the best interest of the Lenders.

Section 9.06 Credit Decision; Disclosure of Information by Agents.

Each Lender acknowledges that no Agent-Related Person has made any representation or warranty to it, and that no act by any Agent hereafter taken, including any consent to and acceptance of any assignment or review of the affairs of any Loan Party or any Affiliate thereof, shall be deemed to constitute any representation or warranty by any Agent-Related Person to any Lender as to any matter, including whether Agent-Related Persons have disclosed material information in their possession. Each Lender represents to each Agent that it has, independently and without reliance upon any Agent-Related Person and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their respective Subsidiaries, and all applicable bank or other regulatory Laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrower and the other Loan Parties hereunder. Each Lender also represents that it will, independently and without reliance upon any Agent-Related Person and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement and the other Loan Documents, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrower and the other Loan Parties. Except for notices, reports and other documents expressly required to be furnished to the Lenders by any Agent herein, such Agent shall not have any duty or responsibility to provide any Lender with any credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their respective Affiliates which may come into the possession of any Agent-Related Person.

Section 9.07 Indemnification of Agents.

Whether or not the transactions contemplated hereby are consummated, the Lenders shall indemnify upon demand each Agent-Related Person (to the extent not reimbursed by or on behalf of any Loan Party and without limiting the obligation of any Loan Party to do so), pro rata, and hold harmless each Agent-Related Person from and against any and all Indemnified Liabilities incurred by it; *provided* that no Lender shall be liable for the payment to any Agent-Related Person of any portion of such Indemnified Liabilities resulting from such Agent-Related Person's own gross negligence or willful misconduct, as determined by the final judgment of a court of competent jurisdiction; *provided* that no action taken in accordance with the directions of the Required Lenders (or such other number or percentage of the Lenders as shall be required by the Loan Documents) shall be deemed to constitute gross negligence or willful misconduct for purposes of this Section 9.07. In the case of any investigation, litigation or proceeding giving rise to any Indemnified Liabilities, this Section 9.07 applies whether any such investigation, litigation or proceeding is brought by any Lender or any other Person. Without limitation of the foregoing, each Lender shall reimburse the Administrative Agent upon demand for its ratable share of any costs or out-of-pocket expenses (including Attorney Costs) incurred by the Administrative Agent in connection with the preparation, execution, delivery, administration, modification, amendment or enforcement (whether through negotiations, legal proceedings or

otherwise) of, or legal advice in respect of rights or responsibilities under, this Agreement, any other Loan Document, or any document contemplated by or referred to herein, to the extent that the Administrative Agent is not reimbursed for such expenses by or on behalf of the Borrower, *provided* that such reimbursement by the Lenders shall not affect the Borrower's continuing reimbursement obligations with respect thereto, if any. The undertaking in this Section 9.07 shall survive termination of the Aggregate Commitments, the payment of all other Obligations and the resignation of the Administrative Agent.

Section 9.08 Agents in their Individual Capacities.

RBC and its Affiliates may make loans to, issue letters of credit for the account of, accept deposits from, acquire Equity Interests in and generally engage in any kind of banking, trust, financial advisory, underwriting or other business with each of the Loan Parties and their respective Affiliates as though RBC were not the Administrative Agent hereunder and without notice to or consent of the Lenders. The Lenders acknowledge that, pursuant to such activities, RBC or its Affiliates may receive information regarding any Loan Party or any Affiliate of a Loan Party (including information that may be subject to confidentiality obligations in favor of such Loan Party or such Affiliate) and acknowledge that the Administrative Agent shall be under no obligation to provide such information to them. With respect to its Loans, RBC shall have the same rights and powers under this Agreement as any other Lender and may exercise such rights and powers as though it were not the Administrative Agent, and the terms "Lender" and "Lenders" include RBC in its individual capacity.

Section 9.09 Successor Agents.

The Administrative Agent may resign as the Administrative Agent upon thirty (30) days' notice to the Lenders and the Borrower. If the Administrative Agent resigns under this Agreement, the Required Lenders shall appoint from among the Lenders a successor agent for the Lenders, which successor agent shall be consented to by the Borrower at all times other than during the existence of an Event of Default under Section 8.01(f) or (g) (which consent of the Borrower shall not be unreasonably withheld or delayed). If no successor agent is appointed prior to the effective date of the resignation of the Administrative Agent, the Administrative Agent may appoint, after consulting with the Lenders and the Borrower, a successor agent from among the Lenders. Upon the acceptance of its appointment as successor agent hereunder, the Person acting as such successor agent shall succeed to all the rights, powers and duties of the retiring Administrative Agent and the term "Administrative Agent", shall mean such successor administrative agent and/or supplemental administrative agent, as the case may be, and the retiring Administrative Agent's appointment, powers and duties as the Administrative Agent shall be terminated. After the retiring Administrative Agent's resignation hereunder as the Administrative Agent, the provisions of this Article IX and Sections 10.04 and 10.05 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was the Administrative Agent under this Agreement. If no successor agent has accepted appointment as the Administrative Agent by the date which is thirty (30) days following the retiring Administrative Agent's notice of resignation, the retiring Administrative Agent's resignation shall nevertheless thereupon become effective and the Lenders shall perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. Upon the acceptance of any appointment as the Administrative Agent hereunder by a successor and upon the execution and filing or recording of such financing statements, or amendments thereto, and such amendments or supplements to the Mortgages, and

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such other instruments or notices, as may be necessary or desirable, or as the Required Lenders may request, in order to (a) continue the perfection of the Liens granted or purported to be granted by the Collateral Documents or (b) otherwise ensure that the Collateral and Guarantee Requirement is satisfied, the Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, discretion, privileges, and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations under the Loan Documents.

Section 9.10 Administrative Agent May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrower) shall be entitled and empowered, by intervention in such proceeding or otherwise:

- (a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.04(g) and (h), 2.10 and 10.04) allowed in such judicial proceeding; and
- (b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agents and their respective agents and counsel, and any other amounts due the Administrative Agent under Sections 2.10 and 10.04.

Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.

Section 9.11 Collateral and Guaranty Matters.

The Lenders irrevocably agree:

- (a) that any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document shall be automatically released (i) upon termination of the Aggregate Commitments and payment in full of all Obligations (other than contingent indemnification obligations not yet accrued and payable), the expiration or termination of any other obligation (including a guarantee that is contingent in nature), (ii) at the time the property subject to such Lien is transferred or to be transferred as part of or in connection with any transfer permitted hereunder or under any other Loan Document to any Person other than the Borrower or any of its Domestic Subsidiaries that are Restricted Subsidiaries, (iii) subject to Section 10.01, if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders, or (iv) if the property subject to such Lien is owned by a Guarantor, upon release of such Guarantor from its obligations under its Guaranty or the Limited Recourse Guaranty, as applicable, pursuant to clause (c), (d) or (e) below;
- (b) to release or subordinate any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 7.01(j);
- (c) that any Subsidiary Guarantor shall be automatically released from its obligations under the Guaranty if such Person ceases to be a Restricted Subsidiary as a result of a transaction or designation permitted hereunder;
- (d) that OCP shall be automatically released from its obligations under the Limited Recourse Guaranty if it ceases to hold Equity Interests in the Transferred Company as a result of a transaction permitted hereunder; and
- (e) if any Subsidiary Guarantor shall cease to be a Material Subsidiary (as certified in writing by a Responsible Officer), (i) such Subsidiary shall be automatically released from its obligations under any Guaranty and (ii) any Liens granted by such Subsidiary or Liens on the Equity Interests of such Subsidiary shall be automatically released.

Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under the Guaranty or the Limited Recourse Guaranty, as applicable, pursuant to this Section 9.11. In each case as specified in this Section 9.11, the Administrative Agent will promptly (and each Lender irrevocably authorizes the Administrative Agent to), at the Borrower's expense, execute and deliver to the applicable Loan Party or other Person such documents as such Loan Party or other Person may reasonably request to evidence the release or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents, or

to evidence the release of such Guarantor from its obligations under the Guaranty or Limited Recourse Guaranty, as applicable, in each case in accordance with the terms of the Loan Documents and this Section 9.11.

Section 9.12 Other Agents; Arrangers and Managers.

None of the Lenders or other Persons identified on the facing page or signature pages of this Agreement as a "syndication agent", "documentation agent", "bookrunner" or "arranger" shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

Section 9.13 Appointment of Supplemental Administrative Agents.

- (a) It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any Law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case the Administrative Agent deems that by reason of any present or future Law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, the Administrative Agent is hereby authorized to appoint an additional individual or institution selected by the Administrative Agent in its sole discretion as a separate trustee, co-trustee, administrative agent, collateral agent, administrative sub-agent or administrative co-agent (any such additional individual or institution being referred to herein individually as a "Supplemental Administrative Agent" and collectively as "Supplemental Administrative Agents").
- (b) In the event that the Administrative Agent appoints a Supplemental Administrative Agent with respect to any Collateral, (i) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to the Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Administrative Agent to the extent, and only to the extent, necessary to enable such Supplemental Administrative Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Administrative Agent shall run to and be enforceable by either the Administrative Agent or such Supplemental Administrative Agent, and (ii) the provisions of this Article IX and of Sections 10.04 and

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10.05 that refer to the Administrative Agent shall inure to the benefit of such Supplemental Administrative Agent and all references therein to the Administrative Agent shall be deemed to be references to the Administrative Agent and/or such Supplemental Administrative Agent, as the context may require.

- (c) Should any instrument in writing from any Loan Party be required by any Supplemental Administrative Agent so appointed by the Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, the Borrower shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by the Administrative Agent. In case any Supplemental Administrative Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Administrative Agent, to the extent permitted by Law, shall vest in and be exercised by the Administrative Agent until the appointment of a new Supplemental Administrative Agent.

Section 9.14 Fondé de Pouvoir.

Each of the Lenders, for its benefit and the benefit of its Affiliates, and each of the other Secured Parties and Indemnitees (collectively called, for purposes of this Section 9.14, the "**Quebec Secured Parties**"), hereby irrevocably appoints Royal Bank of Canada, to act on its behalf as the Administrative Agent and the Collateral Agent hereunder and under the other Loan Documents and authorizes such Agents to take such actions on its behalf and to exercise such powers as are delegated to such Agents by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Section 9.14 are solely for the benefit of the Administrative Agent, the Collateral Agent, the Quebec Secured Parties, and neither the Borrower nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. Notwithstanding anything else contained herein, Administrative Agent or Collateral Agent may assign any of its rights and obligations as an Agent under this Section 9.14 to any of its Affiliates without the consent of any other party to any Loan Document. In addition to the foregoing, the Collateral Agent (including its successors and permitted assigns) is hereby irrevocably appointed as the person holding the power of attorney (*fondé de pouvoir*) of the holder(s) of the Debenture (as hereinafter defined) as contemplated under Article 2692 of the Civil Code of Quebec in connection with any deed of hypothec ("**Deed of Hypothec**") to which the Borrower or any Guarantor is or may become a party under the laws of the Province of Quebec for the purposes of providing for the issuance of debentures (collectively, the "**Debenture**") secured by a hypothec on such Person's Collateral with the authority to exercise such powers and duties which are conferred upon Collateral Agent, as *fondé de pouvoir* under such Deed of Hypothec. The appointment of the Collateral Agent as *fondé de pouvoir* under any Deed of Hypothec executed by the Borrower or any Guarantor prior to the date of this Agreement is hereby ratified and approved. The Collateral Agent (including its successors and permitted assigns) is further irrevocably appointed as agent, mandatary, custodian and depository for and on behalf of each of the Quebec Secured Parties (i) to hold and to be the sole registered holder of any Debenture that may be issued under any such Deed of Hypothec, the whole notwithstanding Section 32 of the *Act respecting the special powers of legal persons* (Quebec) or

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any other applicable law, and (ii) to enter into on behalf of the Quebec Secured Parties, and for their benefit, a Debenture Pledge Agreement ("Pledge") to which the Borrower or any Guarantor is or may become a party under the laws of the Province of Quebec evidencing the pledge of the Debenture as security for the payment and performance of the Obligations. In this respect, (a) Collateral Agent, as agent, mandatary, custodian and depositary of the Quebec Secured Parties, shall keep a record indicating the names and addresses of, and the pro rata portion of the obligations and indebtedness secured by any such Pledge, owing to the persons for and on behalf of whom the Debenture is so held from time to time, and (b) each of the Quebec Secured Parties will be entitled to the benefits of any Collateral of the Borrower or any Guarantor charged under any such Deed of Hypothec and any such Pledge and will participate in the proceeds of realization of any such Collateral, the whole in accordance with the terms hereof. Collateral Agent, in such aforesaid capacities shall (x) have the sole and exclusive right and authority to exercise, except as may be otherwise specifically restricted by the terms hereof, all rights and remedies given to Collateral Agent with respect to the Collateral under any such Deed of Hypothec and Pledge, applicable law or otherwise, and (y) benefit from and be subject to all provisions hereof with respect to Collateral Agent *mutatis mutandis*, including, without limitation, all such provisions with respect to the liability or responsibility to and indemnification by the Quebec Secured Parties. Any person who is or becomes a Quebec Secured Party shall be deemed to have consented to and confirmed Collateral Agent as the person holding the power of attorney (*fondé de pouvoir*) and as the agent, mandatary, custodian and depositary as aforesaid and to have ratified, as of the date it becomes a Quebec Secured Party, all actions taken by Collateral Agent in such capacities. Collateral Agent shall be entitled to delegate from time to time any of its powers or duties under any such Deed of Hypothec and any such Pledge to any person and on such terms and conditions as Collateral Agent may determine from time to time.

ARTICLE X MISCELLANEOUS

Section 10.01 Amendments, Etc.

Except as otherwise set forth in this Agreement, no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Borrower or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Borrower or the applicable Loan Party, as the case may be, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; *provided* that no such amendment, waiver or consent shall:

- (a) extend or increase the Commitment of any Lender without the written consent of each Lender directly affected thereby (it being understood that a waiver of any condition precedent set forth in Section 4.02 or the waiver of any Default, mandatory prepayment or mandatory reduction of the Commitments shall not constitute an extension or increase of any Commitment of any Lender);
- (b) postpone any date scheduled for, or reduce the amount of, any payment of principal or interest under Section 2.08 or 2.09 without the written consent of each Lender directly affected thereby, it being understood that the waiver of (or amendment to the terms of) any mandatory prepayment of

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the Loans shall not constitute a postponement of any date scheduled for the payment of principal or interest;

- (c) reduce the principal of, or the rate of interest specified herein on, any Loan, or (subject to clause (iii) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby, it being understood that any change to the definition of Total Leverage Ratio or Senior Secured Leverage Ratio or in each case in the component definitions thereof shall not constitute a reduction in the rate of interest; *provided* that only the consent of the Required Lenders shall be necessary to amend the definition of "Default Rate" or to waive any obligation of the Borrower to pay interest at the Default Rate;
- (d) change any provision of this Section 10.01, the definition of "Required Lenders" or "Pro Rata Share" or Section 2.06(b)(v)(Y), 2.07(c), 8.04 or 2.14 without the written consent of each Lender affected thereby;
- (e) other than in a transaction permitted under Section 7.04 or Section 7.05, release all or substantially all of the Collateral in any transaction or series of related transactions, without the written consent of each Lender; or
- (f) other than in a transaction permitted under Section 7.04 or Section 7.05, release all or substantially all of the Guarantees, without the written consent of each Lender;

and *provided further* that (i) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of, or any fees or other amounts payable to, the Administrative Agent under this Agreement or any other Loan Document; and (ii) Section 10.07(h) may not be amended, waived or otherwise modified without the consent of each Granting Lender all or any part of whose Loans are being funded by an SPC at the time of such amendment, waiver or other modification. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitment of such Lender may not be increased or extended without the consent of such Lender (it being understood that any Commitments or Loans held or deemed held by any Defaulting Lender shall be excluded for a vote of the Lenders hereunder requiring any consent of the Lenders).

Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent and the Borrower (a) to add one or more additional credit facilities to this Agreement and to permit the extensions of credit from time to time outstanding thereunder and the accrued interest and fees in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Loans, the Incremental Term Loans and Additional Incremental Term Loans, if any, and the accrued interest and fees in respect thereof and (b) to include appropriately the Lenders holding such credit facilities in any determination of the Required Lenders.

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In addition, notwithstanding the foregoing, this Agreement may be amended with the written consent of the Administrative Agent, the Borrower and the Lenders providing the relevant Replacement Term Loans (as defined below) to permit the refinancing of all outstanding Loans ("Refinanced Term Loans") with a replacement term loan denominated in Dollars ("Replacement Term Loans") hereunder; *provided* that (a) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Refinanced Term Loans, (b) the Applicable Rate with respect to such Replacement Term Loans (or similar interest rate spread applicable to such Replacement Term Loans) shall not be higher than the Applicable Rate for such Refinanced Term Loans (or similar interest rate spread applicable to such Refinanced Term Loans) immediately prior to such refinancing, (c) the Weighted Average Life to Maturity of such Replacement Term Loans shall not be shorter than the Weighted Average Life to Maturity of such Refinanced Term Loans at the time of such refinancing (except to the extent of nominal amortization for periods where amortization has been eliminated as a result of prepayment of the Refinanced Term Loans) and (d) all other terms applicable to such Replacement Term Loans shall be substantially identical to, or less favorable to the Lenders providing such Replacement Term Loans than those applicable to such Refinanced Term Loans, except to the extent necessary to provide for covenants and other terms applicable to any period after the latest final maturity of the Loans in effect immediately prior to such refinancing.

Notwithstanding anything to the contrary contained in Section 10.01, the Intercreditor Agreement, any guarantees, collateral security documents and related documents executed by Subsidiaries in connection with this Agreement may be in a form reasonably determined by the Administrative Agent and may be, together with this Agreement, amended, supplemented and waived with the consent of the Administrative Agent at the request of the Borrower without the need to obtain the consent of any other Lender if such amendment, supplement or waiver is delivered in order (i) to comply with local Law or advice of local counsel, (ii) to cure ambiguities, omissions, mistakes or defects or (iii) to cause such Intercreditor Agreement, guarantee, collateral security document or other document to be consistent with this Agreement and the other Loan Documents.

Section 10.02 Notices and Other Communications; Facsimile Copies.

- (a) *General.* Unless otherwise expressly provided herein, all notices and other communications provided for hereunder or under any other Loan Document shall be in writing (including by facsimile transmission). All such written notices shall be mailed, faxed or delivered to the applicable address, facsimile number or electronic mail address, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:
 - (i) if to the Borrower or the Administrative Agent, to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02 or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a notice to the other parties; and

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- (ii) if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire or to such other address, facsimile number, electronic mail address or telephone number as shall be designated by such party in a written notice to the Borrower and the Administrative Agent.

All such notices and other communications shall be deemed to be given or made upon the earlier to occur of (i) actual receipt by the relevant party hereto and (ii) (A) if delivered by hand or by courier, when signed for by or on behalf of the relevant party hereto; (B) if delivered by mail, four (4) Business Days after deposit in the mails, postage prepaid; (C) if delivered by facsimile, when sent and receipt has been confirmed by telephone; and (D) if delivered by electronic mail (which form of delivery is subject to the provisions of Section 10.02(c)), when delivered; *provided* that notices and other communications to the Administrative Agent pursuant to Article II shall not be effective until actually received by such Person during the person's normal business hours. In no event shall a voice mail message be effective as a notice, communication or confirmation hereunder.

- (b) *Effectiveness of Facsimile Documents and Signatures.* Loan Documents may be transmitted and/or signed by facsimile or other electronic communication. The effectiveness of any such documents and signatures shall, subject to applicable Law, have the same force and effect as manually signed originals and shall be binding on all Loan Parties, the Agents and the Lenders.
- (c) *Reliance by Agents and Lenders.* The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic Committed Loan Notices) purportedly given by or on behalf of the Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrower shall indemnify each Agent-Related Person and each Lender from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Borrower in the absence of gross negligence or willful misconduct. All telephonic notices to the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.

Section 10.03 No Waiver; Cumulative Remedies.

No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and

privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by Law.

Section 10.04 Attorney Costs and Expenses.

The Borrower agrees (a) if the Closing Date occurs, to pay or reimburse the Administrative Agent and the Arranger for all reasonable and documented out-of-pocket costs and expenses incurred in connection with the preparation, syndication, execution, delivery and administration of this Agreement and the other Loan Documents, and any amendment, waiver, consent or other modification of the provisions hereof and thereof (whether or not the transactions contemplated thereby are consummated), including all Attorney Costs of Osler, Hoskin & Harcourt LLP and one local and foreign counsel in each relevant jurisdiction, and (b) to pay or reimburse the Administrative Agent, each Agent-Related Person, the Arranger and each Lender for all reasonable and documented out-of-pocket costs and expenses incurred in connection with the enforcement of any rights or remedies under this Agreement or the other Loan Documents (including all such costs and expenses incurred during any legal proceeding, including any proceeding under any Debtor Relief Law, and including all Attorney Costs of counsel to the Administrative Agent). The foregoing costs and expenses shall include all reasonable search, filing, recording and title insurance charges and fees related thereto, and other reasonable and documented out-of-pocket expenses incurred by any Agent. The agreements in this Section 10.04 shall survive the termination of the Aggregate Commitments and repayment of all other Obligations. All amounts due under this Section 10.04 shall be paid within ten (10) Business Days of receipt by the Borrower of an invoice relating thereto setting forth such expenses in reasonable detail. If any Loan Party fails to pay when due any costs, expenses or other amounts payable by it hereunder or under any Loan Document, such amount may be paid on behalf of such Loan Party by the Administrative Agent in its sole discretion.

Section 10.05 Indemnification by the Borrower.

Whether or not the transactions contemplated hereby are consummated, the Borrower shall indemnify and hold harmless each Agent-Related Person, each Lender and their respective Affiliates, directors, officers, employees, counsel, agents, trustees, investment advisors and attorneys-in-fact (collectively the "Indemnitees") from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses and disbursements (including Attorney Costs) of any kind or nature whatsoever which may at any time be imposed on, incurred by or asserted against any such Indemnatee in any way relating to or arising out of or in connection with (a) the execution, delivery, enforcement, performance or administration of any Loan Document or any other agreement, letter or instrument delivered in connection with the transactions contemplated thereby or the consummation of the transactions contemplated thereby, (b) any Commitment or Loan or the use or proposed use of the proceeds therefrom, or (c) any actual or alleged presence or release of Hazardous Materials on, at, under or from any property currently or formerly owned or operated by the Borrower, any Subsidiary or any other Loan Party, or any Environmental Liability related in any way to the Borrower, any Subsidiary or any other Loan Party, or (d) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory (including any investigation of, preparation for, or defense of any pending or threatened claim, investigation, litigation or proceeding) (all the foregoing, collectively, the "Indemnified Liabilities"), in all cases, whether or not caused by or arising, in whole or in part, out of the negligence of the Indemnatee; *provided* that such

indemnity shall not, as to any Indemnitee, be available to the extent that such liabilities, obligations, losses, damages, penalties, claims, demands, actions, judgments, suits, costs, expenses or disbursements resulted from (x) the gross negligence, bad faith or willful misconduct of such Indemnitee or of any affiliate, director, officer, employee, counsel, agent or attorney-in-fact of such Indemnitee or (y) a material breach of the Loan Documents by such Indemnitee or of any affiliate, director, officer, employee, counsel, agent or attorney-in-fact of such Indemnitee. No Indemnitee shall be liable for any damages arising from the use by others of any information or other materials obtained through IntraLinks or other similar information transmission systems in connection with this Agreement, nor shall any Indemnitee or any Loan Party have any liability for any special, punitive, indirect or consequential damages relating to this Agreement or any other Loan Document or arising out of its activities in connection herewith or therewith (whether before or after the Closing Date). In the case of an investigation, litigation or other proceeding to which the indemnity in this Section 10.05 applies, such indemnity shall be effective whether or not such investigation, litigation or proceeding is brought by any Loan Party, its directors, stockholders or creditors or an Indemnitee or any other Person, whether or not any Indemnitee is otherwise a party thereto and whether or not any of the transactions contemplated hereunder or under any of the other Loan Documents is consummated. All amounts due under this Section 10.05 shall be paid within ten (10) Business Days after demand therefor; *provided, however*, that such Indemnitee shall promptly refund such amount to the extent that there is a final judicial or arbitral determination that such Indemnitee was not entitled to indemnification or contribution rights with respect to such payment pursuant to the express terms of this Section 10.05. The agreements in this Section 10.05 shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.

Section 10.06 Payments Set Aside.

To the extent that any payment by or on behalf of the Borrower is made to any Agent or any Lender, or any Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by such Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share of any amount so recovered from or repaid by any Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate.

Section 10.07 Successors and Assigns.

- (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that, except as otherwise provided herein, neither Holdings nor the Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an Eligible Assignee, (ii) by way of

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participation in accordance with the provisions of Section 10.07(e), (iii) by way of pledge or assignment of a security interest subject to the restrictions of Section 10.07(g) or (iv) to an SPC in accordance with the provisions of Section 10.07(h) (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in Section 10.07(e) and, to the extent expressly contemplated hereby, the Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

- (b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees ("Assignees") all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:
 - (A) the Borrower, *provided* that, subject to clause (k) below, no consent of the Borrower shall be required for an assignment to any other Lender, any Affiliate of a Lender or any Approved Fund or, if an Event of Default under Section 8.01(a) or, with respect to the Borrower only, Section 8.01(f) or (g), has occurred and is continuing, any Assignee; *provided, however*, that during the 30 day period following the Closing Date, the Borrower shall be deemed to have consented to an assignment to any Lender if such Lender was previously identified in the initial allocations of the Loans provided by the Arranger to the Borrower and reviewed and approved by the Borrower in writing; and
 - (B) the Administrative Agent; *provided* that no consent of the Administrative Agent shall be required for an assignment of all or any portion of a Loan to another Lender, an Affiliate of a Lender or an Approved Fund.
- (ii) Assignments shall be subject to the following additional conditions:
 - (A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$1,000,000 unless the Borrower and the Administrative Agent otherwise consents, *provided* that (1)

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no such consent of the Borrower shall be required if an Event of Default under Section 8.01(a) or, with respect to the Borrower only, Section 8.01(f) or (g), has occurred and is continuing and (2) such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds, if any;

- (B) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption; and
 - (C) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any documentation required by Section 3.01(g).
- (c) Subject to acceptance and recording thereof by the Administrative Agent pursuant to Section 10.07(d) and receipt by the Administrative Agent from the parties to each assignment of a processing and recordation fee of \$3,500, from and after the effective date specified in each Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, 10.04 and 10.05 with respect to facts and circumstances occurring prior to the effective date of such assignment). Upon request, and the surrender by the assigning Lender of its Term Note, the Borrower (at its expense) shall execute and deliver a Term Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this clause (c) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 10.07(e). For greater certainty, any assignment by a Lender pursuant to this Section 10.07 shall not in any way constitute or be deemed to constitute a novation, discharge, recession, extinguishment or substitution of the existing Indebtedness and any Indebtedness so assigned shall continue to be the same obligation and not a new obligations.
- (d) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Administrative Agent's Office a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and related interest amounts) of the Loans and amounts due under Section 2.04, owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The

entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Agents and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower, any Agent and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

- (e) Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person) (each, a "**Participant**") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); *provided* that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrower, the Agents and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement or the other Loan Documents; *provided* that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in Section 10.01(a), (b), (c), (e) or (f) that directly affects such Participant. Subject to Section 10.07(f), the Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.01 (subject to the requirements of Section 3.01(g)), 3.04 and 3.05 (through the applicable Lender) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 10.07(b). To the extent permitted by applicable Law, each Participant also shall be entitled to the benefits of Section 10.09 as though it were a Lender; *provided* that such Participant agrees to be subject to Section 2.14 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each participant and the principal amounts of each participant's interest in the Loans or other obligations under this Agreement (the "**Participant Register**"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such Loan or other obligation hereunder as the owner thereof for all purposes of this Agreement notwithstanding any notice to the contrary. Any such Participant Register shall be available for inspection by the Administrative Agent at any reasonable time and from time to time upon reasonable prior notice. Notwithstanding anything to the contrary in this Section 10.07(e), each Lender shall have the right to sell one or more participations in all or any

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part of its Loans, Commitments or other Obligations to one or more lenders or other Persons that provide financing to such Lender in the form of sales and repurchases of participations without having to satisfy the foregoing requirements.

- (f) A Participant shall not be entitled to receive any greater payment under Section 3.01, 3.04 or 3.05 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent.
- (g) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Term Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; *provided* that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.
- (h) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to the Administrative Agent and the Borrower (an "SPC") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; *provided* that (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (i) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of the Borrower under this Agreement (including its obligations under Section 3.01, 3.04 or 3.05), (ii) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable and such liability shall remain with the Granting Lender, and (iii) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. Notwithstanding anything to the contrary contained herein, any SPC may (i) with notice to, but without prior consent of the Borrower and the Administrative Agent, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (ii) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any

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surety or Guarantee Obligation or credit or liquidity enhancement to such SPC.

- (i) Notwithstanding anything to the contrary contained herein, (1) any Lender may in accordance with applicable Law create a security interest in all or any portion of the Loans owing to it and the Term Note, if any, held by it and (2) any Lender that is a Fund may create a security interest in all or any portion of the Loans owing to it and the Term Note, if any, held by it to the trustee for holders of obligations owed, or securities issued, by such Fund as security for such obligations or securities; *provided* that unless and until such trustee actually becomes a Lender in compliance with the other provisions of this Section 10.07, (i) no such pledge shall release the pledging Lender from any of its obligations under the Loan Documents and (ii) such trustee shall not be entitled to exercise any of the rights of a Lender under the Loan Documents even though such trustee may have acquired ownership rights with respect to the pledged interest through foreclosure or otherwise.
- (j) [Reserved]
- (k) Notwithstanding anything to the contrary in clause (b)(i)(A) above, unless an Event of Default under Section 8.01(a) or, with respect to the Borrower only, Section 8.01(f) or (g) has occurred and is continuing, no assignment by any Lender of any Loans shall be permitted without the consent of the Borrower if, after giving effect to such assignment, the assignee in respect thereof, taken together with its Affiliates and Approved Funds, would hold in the aggregate more than 20% of the Outstanding Amount of the Loans.

Section 10.08 Confidentiality.

Each of the Agents and the Lenders agrees to maintain the confidentiality of the Information and to not use or disclose such information, except that Information may be disclosed (a) to its Affiliates and its and its Affiliates' directors, officers, employees, trustees, investment advisors and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential); (b) to the extent requested by any Governmental Authority; (c) to the extent required by applicable Laws or regulations or by any subpoena or similar legal process; (d) to any other party to this Agreement; (e) subject to an agreement containing provisions substantially the same as those of this Section 10.08 (or as may otherwise be reasonably acceptable to the Borrower), to any pledgee referred to in Section 10.07(g) or 10.07(i), counterparty to a Swap Contract, Eligible Assignee of or Participant in, or any prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement; (f) with the written consent of the Borrower; (g) to the extent such Information becomes publicly available other than as a result of a breach of this Section 10.08; (h) to any Governmental Authority or examiner (including the National Association of Insurance Commissioners or any other similar organization) regulating any Lender; (i) to any rating agency when required by it (it being understood that, prior to any such disclosure, such rating agency shall undertake to preserve the confidentiality of any Information relating to the Loan Parties received by it from such Lender); or (j) in connection with the exercise of any remedies

hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder. In addition, the Agents and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers to the Agents and the Lenders in connection with the administration and management of this Agreement, the other Loan Documents, the Commitments, and the Borrowings. For the purposes of this Section 10.08, "Information" means all information received from any Loan Party or its Affiliates or its Affiliates' directors, officers, employees, trustees, investment advisors or agents, relating to Holdings, the Borrower or any of their subsidiaries or their business, other than any such information that is publicly available to any Agent or any Lender prior to disclosure by any Loan Party other than as a result of a breach of this Section 10.08; *provided* that, in the case of information received from a Loan Party after the date hereof, such information is clearly identified at the time of delivery as confidential or (ii) is delivered pursuant to Section 6.01, 6.02 or 6.03 hereof.

Section 10.09 Setoff.

In addition to any rights and remedies of the Lenders provided by Law, upon the occurrence and during the continuance of any Event of Default, each Lender and its Affiliates is authorized at any time and from time to time, without prior notice to the Borrower or any other Loan Party, any such notice being waived by the Borrower (on its own behalf and on behalf of each Loan Party and its Subsidiaries) to the fullest extent permitted by applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held by, and other Indebtedness at any time owing by, such Lender and its Affiliates, to or for the credit or the account of the respective Loan Parties and their Subsidiaries against any and all Obligations owing to such Lender and its Affiliates hereunder or under any other Loan Document, now or hereafter existing, irrespective of whether or not such Agent or such Lender or Affiliate shall have made demand under this Agreement or any other Loan Document and although such Obligations may be contingent or unmatured or denominated in a currency different from that of the applicable deposit or Indebtedness. Notwithstanding anything to the contrary contained herein, no Lender or its Affiliates shall have a right to set off and apply any deposits held or other Indebtedness owing by such Lender or its Affiliates to or for the credit or the account of any Subsidiary of a Loan Party which is not a "United States person" within the meaning of Section 7701(a)(30) of the Code unless such Subsidiary is not a direct or indirect subsidiary of the Borrower. Each Lender agrees promptly to notify the Borrower and the Administrative Agent after any such set off and application made by such Lender; *provided* that the failure to give such notice shall not affect the validity of such setoff and application. The rights of the Administrative Agent and each Lender under this Section 10.09 are in addition to other rights and remedies (including other rights of setoff) that the Administrative Agent and such Lender may have.

Section 10.10 Counterparts.

This Agreement and each other Loan Document may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Delivery by telecopier of an executed counterpart of a signature page to this Agreement and each other Loan Document shall be effective as delivery of an original executed counterpart of this Agreement and such other Loan Document. The Agents may also require that any such documents and signatures delivered by telecopier be confirmed by a manually signed

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original thereof; *provided* that the failure to request or deliver the same shall not limit the effectiveness of any document or signature delivered by telecopier.

Section 10.11 Integration.

This Agreement, together with the other Loan Documents, comprises the complete and integrated agreement of the parties on the subject matter hereof and thereof and supersedes all prior agreements, written or oral, on such subject matter. In the event of any conflict between the provisions of this Agreement and those of any other Loan Document, the provisions of this Agreement shall control; *provided* that the inclusion of supplemental rights or remedies in favor of the Agents or the Lenders in any other Loan Document shall not be deemed a conflict with this Agreement. Each Loan Document was drafted with the joint participation of the respective parties thereto and shall be construed neither against nor in favor of any party, but rather in accordance with the fair meaning thereof.

Section 10.12 Survival of Representations and Warranties.

All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by each Agent and each Lender, regardless of any investigation made by any Agent or any Lender or on their behalf and notwithstanding that any Agent or any Lender may have had notice or knowledge of any Default at the time of any Borrowing, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.

Section 10.13 Severability.

If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

Section 10.14 GOVERNING LAW.

- (a) THIS AGREEMENT AND EACH OTHER LOAN DOCUMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK (EXCEPT AS OTHERWISE EXPRESSLY PROVIDED THEREIN).
- (b) ANY LEGAL ACTION OR PROCEEDING ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, MAY BE BROUGHT IN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK CITY OR OF THE UNITED

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STATES FOR THE SOUTHERN DISTRICT OF SUCH STATE, AND BY EXECUTION AND DELIVERY OF THIS AGREEMENT, THE BORROWER, HOLDINGS, EACH AGENT AND EACH LENDER CONSENTS, FOR ITSELF AND IN RESPECT OF ITS PROPERTY, TO THE NON-EXCLUSIVE JURISDICTION OF THOSE COURTS. THE BORROWER, HOLDINGS, EACH AGENT AND EACH LENDER IRREVOCABLY WAIVES ANY OBJECTION, INCLUDING ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING OF ANY ACTION OR PROCEEDING IN SUCH JURISDICTION IN RESPECT OF ANY LOAN DOCUMENT OR OTHER DOCUMENT RELATED THERETO.

Section 10.15 WAIVER OF RIGHT TO TRIAL BY JURY.

EACH PARTY TO THIS AGREEMENT HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER ANY LOAN DOCUMENT OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO ANY LOAN DOCUMENT, OR THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER FOUNDED IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY, AND THAT ANY PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 10.15 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE SIGNATORIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

Section 10.16 Binding Effect.

This Agreement shall become effective when it shall have been executed by the Borrower and Holdings and the Administrative Agent shall have been notified by each Lender that each such Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrower, each Agent and each Lender and their respective successors and assigns, except that the Borrower shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders except as permitted by Section 7.04

Section 10.17 Judgment Currency.

If, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or any other Loan Document in one currency into another currency, the rate of exchange used shall be that at which in accordance with normal banking procedures the Administrative Agent could purchase the first currency with such other currency on the Business Day preceding that on which final judgment is given. The obligation of the Borrower in respect of any such sum due from it to the Administrative Agent or the Lenders hereunder or under the other Loan Documents shall, notwithstanding any judgment in a currency (the "**Judgment Currency**") other than that in which such sum is denominated in accordance with the applicable provisions of this Agreement (the "**Agreement Currency**"), be discharged only to the extent that

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on the Business Day following receipt by the Administrative Agent of any sum adjudged to be so due in the Judgment Currency, the Administrative Agent may in accordance with normal banking procedures purchase the Agreement Currency with the Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum originally due to the Administrative Agent from the Borrower in the Agreement Currency, the Borrower agrees, as a separate obligation and notwithstanding any such judgment, to indemnify the Administrative Agent or the Person to whom such obligation was owing against such loss. If the amount of the Agreement Currency so purchased is greater than the sum originally due to the Administrative Agent in such currency, the Administrative Agent agrees to return the amount of any excess to the Borrower (or to any other Person who may be entitled thereto under applicable Law).

Section 10.18 Lender Action.

Each Lender agrees that it shall not take or institute any actions or proceedings, judicial or otherwise, for any right or remedy against any Loan Party or any other obligor under any of the Loan Documents (including the exercise of any right of setoff, rights on account of any banker's lien or similar claim or other rights of self-help), or institute any actions or proceedings, or otherwise commence any remedial procedures, with respect to any Collateral or any other property of any such Loan Party, without the prior written consent of the Administrative Agent. The provision of this Section 10.18 are for the sole benefit of the Lenders and shall not afford any right to, or constitute a defense available to, any Loan Party.

Section 10.19 USA PATRIOT Act.

Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the USA PATRIOT Act.

Section 10.20 Intercreditor Agreement.

Each of the Lenders hereby acknowledges that it has received and reviewed the Intercreditor Agreement, consents to the subordination of the Liens provided for therein, and agrees to be bound by the terms thereof. Each Lender (and each Person that becomes a Lender hereunder pursuant to Section 10.07) hereby (i) acknowledges that Royal Bank of Canada is acting under the Intercreditor Agreement in multiple capacities as the Collateral Agent and the "First Lien Collateral Agent" (as defined in the Intercreditor Agreement) and (ii) waives any conflict of interest, now contemplated or arising hereafter, in connection therewith and agrees not to assert against Royal Bank of Canada any claims, causes of action, damages or liabilities of whatever kind of nature relating thereto. Each Lender (and each Person that becomes a Lender hereunder pursuant to Section 10.07) hereby authorizes and directs Royal Bank of Canada to enter into the Intercreditor Agreement on behalf of such Lender and agrees that Royal Bank of Canada, in its various capacities thereunder, may take such actions on its behalf as is contemplated by the terms of the Intercreditor Agreement.

[Remainder of page intentionally left blank]

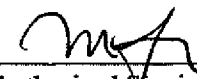
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

NELSON EDUCATION LTD., as Borrower,

By: 
Authorized Signing Officer

By: 
Authorized Signing Officer

NELSON EDUCATION HOLDINGS LTD.

By: 
Authorized Signing Officer

By: 
Authorized Signing Officer

**ROYAL BANK OF CANADA, as
Administrative Agent and Collateral Agent,**

By: 

Authorized Signatory
Ann Hurley
Manager, Agency

ROYAL BANK OF CANADA, as a Lender,

By: _____

Authorized Signatory

**ROYAL BANK OF CANADA, as
Administrative Agent and Collateral Agent,**

By: _____
Authorized Signatory

ROYAL BANK OF CANADA, as a Lender,

By: _____
Authorized Signatory

Miguel A. Roman
Managing Director

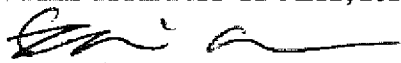
TAB F

THIS IS EXHIBIT "F" REFERRED TO IN THE

AFFIDAVIT OF GREG NORDAL

SWORN BEFORE ME

ON THIS 11TH DAY OF MAY, 2015

A handwritten signature in black ink, appearing to be "M. A.", is written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS

INTERCREDITOR AGREEMENT

This **INTERCREDITOR AGREEMENT** ("Agreement"), is dated as of July 5, 2007, and entered into by and among **NELSON EDUCATION LTD.** (the "**Company**"), **NELSON EDUCATION HOLDINGS LTD.** ("**Holdings**"), **ROYAL BANK OF CANADA**, in its capacity as collateral agent for the First Lien Obligations (as defined below), including its successors and assigns from time to time (the "**First Lien Collateral Agent**"), and **ROYAL BANK OF CANADA**, in its capacity as collateral agent for the Second Lien Obligations (as defined below), including its successors and assigns from time to time (the "**Second Lien Collateral Agent**"). Capitalized terms used in this Agreement have the meanings assigned to them in Section 1 below.

RECITALS

The Company, Holdings, the lenders party thereto from time to time, and Royal Bank of Canada ("**RBC**"), as Lead Arranger, Administrative Agent and First Lien Collateral Agent, have entered into that First Lien Credit Agreement dated as of the date hereof providing for a revolving credit facility and term loan (as amended, restated, supplemented, modified, replaced or refinanced from time to time, the "**First Lien Credit Agreement**");

The Company, Holdings, the lenders party thereto from time to time, RBC, as Lead Arranger, Administrative Agent and Second Lien Collateral Agent, entered into that Second Lien Credit Agreement dated as of the date hereof providing for a term loan (as amended, restated, supplemented, modified, replaced or refinanced from time to time, the "**Second Lien Credit Agreement**");

Pursuant to (i) a guarantee dated as of the date hereof, Holdings and certain Subsidiaries of Holdings have agreed to guarantee the First Lien Obligations (the "**First Lien Guarantee**") and Holdings and the Company have agreed to cause, subject to the terms of the First Lien Credit Agreement, certain future Subsidiaries of Holdings to agree to guarantee certain of the First Lien Obligations and (ii) a guarantee dated as of the date hereof, Holdings and certain Subsidiaries of Holdings have agreed to guarantee the Second Lien Obligations (the "**Second Lien Guarantee**") and Holdings and the Company have agreed to cause, subject to the terms of the Second Lien Credit Agreement, certain future Subsidiaries of Holdings to agree to guarantee certain of the Second Lien Obligations;

The obligations of the Company under the First Lien Credit Agreement, any Hedge Agreements with a Lender Counterparty and the Cash Management Obligations, the obligations of Holdings and the Subsidiary guarantors (including certain future Subsidiaries of Holdings) under the First Lien Guarantee will be secured on a first priority basis by liens on, subject to the terms of the First Lien Loan Documents, substantially all the assets of the Company, Holdings and the Subsidiary guarantors (such current and future Subsidiaries of Holdings providing a guarantee thereof, the "**Guarantor Subsidiaries**"), respectively, pursuant to the terms of the First Lien Collateral Documents;

The obligations of the Company under the Second Lien Credit Agreement, the obligations of Holdings and the Guarantor Subsidiaries under the Second Lien Guarantee will be secured on a second priority basis by liens on, subject to the terms of the Second Lien Loan

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Documents, substantially all the assets of the Company, Holdings and the Guarantor Subsidiaries, respectively, pursuant to the terms of the Second Lien Collateral Documents;

The First Lien Loan Documents and the Second Lien Loan Documents provide, among other things, that the parties thereto shall set forth in this Agreement their respective rights and remedies with respect to the Collateral and certain rights with respect to receipt of payments; and

In order to induce the First Lien Collateral Agent and the First Lien Claimholders to consent to the Grantors incurring the Second Lien Obligations and to induce the First Lien Claimholders to extend credit and other financial accommodations and lend monies to or for the benefit of the Company or any other Grantor, the Second Lien Collateral Agent on behalf of the Second Lien Claimholders has agreed to the intercreditor and other provisions set forth in this Agreement.

AGREEMENT

In consideration of the foregoing, the mutual covenants and obligations herein set forth and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto, intending to be legally bound, hereby agree as follows:

SECTION 1. Definitions

1.1 Defined Terms. As used in the Agreement, the following terms shall have the following meanings:

“**Affiliate**” has the meaning specified in the First Lien Credit Agreement.

“**Agreement**” means this Intercreditor Agreement, as amended, restated, renewed, extended, supplemented or otherwise modified from time to time.

“**Bankruptcy Code**” means Title 11 of the United States Code entitled “Bankruptcy,” as now and hereafter in effect, or any successor statute.

“**BIA**” means the *Bankruptcy and Insolvency Act* (Canada) as now and hereafter in effect, or any successor statute.

“**Bankruptcy Law**” means the Bankruptcy Code, the BIA, the CCAA, the WURA and any other applicable law granting relief from or otherwise affecting creditors, and any similar federal, provincial, state or foreign bankruptcy, insolvency, arrangement, reorganization or receivership law.

“**Business Day**” has the meaning specified in the First Lien Credit Agreement.

“**Cash Management Obligations**” means obligations owed by any Loan Party to any First Lien Lender or any Affiliate of a First Lien Lender in respect of any overdraft and related liabilities arising from treasury, depository and cash management services or any automated clearing house transfers of funds.

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"CCAA" means the *Companies' Creditors Arrangement Act*, as now and hereafter in effect, or any successor statute.

"Collateral" means all of the assets and property of any Grantor, whether real, personal or mixed, constituting both First Lien Collateral and Second Lien Collateral.

"Collateral Agent" means each of the First Lien Collateral Agent and the Second Lien Collateral Agent.

"Company" has the meaning assigned to that term in the Preamble to this Agreement.

"Comparable Second Lien Collateral Document" means, in relation to any Collateral subject to any Lien created under any First Lien Collateral Document, the Second Lien Loan Document which creates a Lien on the same Collateral, granted by the same Grantor.

"DIP Financing" has the meaning assigned to that term in Section 6.1.

"Discharge of First Lien Obligations" means, except to the extent otherwise expressly provided in Section 5.5:

(a) payment in full in cash of the principal of and interest (including interest accruing (or which would, absent the commencement of any Insolvency or Liquidation Proceeding, accrue) on or after the commencement of any Insolvency or Liquidation Proceeding, whether or not such interest would be allowed in such Insolvency or Liquidation Proceeding) on all Indebtedness outstanding under the First Lien Loan Documents and constituting First Lien Obligations (other than contingent obligations not yet due and payable);

(b) payment in full in cash of all other First Lien Obligations that are due and payable or otherwise accrued and owing at or prior to the time such principal and interest are paid;

(c) termination or expiration of all commitments, if any, to extend credit that would constitute First Lien Obligations;

(d) termination or cash collateralization (in an amount and manner reasonably satisfactory to the First Lien Collateral Agent, but in no event greater than 101% of the aggregate undrawn face amount) of all letters of credit issued under the First Lien Loan Documents and constituting First Lien Obligations; and

(e) expiration or termination of all Hedge Agreements entered into with a Lender Counterparty.

"Disposition" has the meaning assigned to that term in Section 5.1(b).

"Dollar Equivalent" has the meaning specified in the First Lien Credit Agreement.

"First Lien Claimholders" means, at any relevant time, the holders of First Lien Obligations at that time, including the First Lien Collateral Agent, the First Lien Lenders, any

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other "Secured Party" (as defined in the First Lien Credit Agreement) and the agents under the First Lien Loan Documents.

"First Lien Collateral" means the "Collateral" as defined in the First Lien Collateral Documents.

"First Lien Collateral Agent" has the meaning assigned to that term in the Recitals to this Agreement.

"First Lien Collateral Documents" means the Collateral Documents as defined in the First Lien Credit Agreement and any other agreement, document or instrument pursuant to which a Lien is granted securing any First Lien Obligations or under which rights or remedies with respect to such Liens are governed.

"First Lien Credit Agreement" has the meaning assigned to that term in the Recitals to this Agreement.

"First Lien Guarantee" has the meaning assigned to that term in the Recitals to this Agreement.

"First Lien Lenders" means the "Lenders" under and as defined in the First Lien Loan Documents.

"First Lien Loan Documents" means the First Lien Credit Agreement and the Loan Documents (as defined in the First Lien Credit Agreement), including Hedge Agreements entered into with a Lender Counterparty, and each of the other agreements, documents and instruments providing for or evidencing any other First Lien Obligation, and any other document or instrument executed or delivered at any time in connection with any First Lien Obligations, including any intercreditor or joinder agreement among holders of First Lien Obligations, to the extent such are effective at the relevant time, as each may be amended, restated, supplemented, modified, renewed or extended from time to time in accordance with the provisions of this Agreement.

"First Lien Obligations" means, subject to the next sentence, all Obligations under the First Lien Credit Agreement and the other First Lien Loan Documents, including Hedge Agreements entered into with any Lender Counterparty. "First Lien Obligations" shall include all interest and other obligations accrued or accruing (or which would, absent commencement of an Insolvency or Liquidation Proceeding, accrue) after commencement of an Insolvency or Liquidation Proceeding in accordance with the rate specified in the relevant First Lien Loan Document whether or not the claim for such interest or other obligation is allowed as a claim in such Insolvency or Liquidation Proceeding. To the extent any payment with respect to the First Lien Obligations (whether by or on behalf of any Grantor, as proceeds of security, enforcement of any right of set off or otherwise) is declared to be fraudulent or preferential in any respect, set aside or required to be paid to a creditor, debtor in possession, trustee, receiver or similar person, then the obligation or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding as if such payment had not occurred. For greater certainty, First Lien Obligations shall include all Cash Management Obligations.

"Governmental Authority" means any foreign or domestic, federal, provincial, state, municipal, supranational, national or other government, governmental department, commission, board, bureau, court, agency or instrumentality or political subdivision thereof or any entity or officer exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case whether associated with a state of the United States, the United States, Canada, a province of Canada or a foreign entity or government.

"Grantors" means the Company, Holdings, each of the Guarantor Subsidiaries and each other Person that has or may from time to time hereafter execute and deliver a First Lien Collateral Document or a Second Lien Collateral Document as a **"Grantor"** (or the equivalent thereof).

"Guarantor Subsidiaries" has the meaning set forth in the Recitals to this Agreement.

"Hedge Agreements" means a Swap Contract entered into with a Lender Counterparty.

"Hedging Obligation" of any Person means any obligation of such Person pursuant to any Hedge Agreements.

"Holdings" has the meaning set forth in the Recitals to this Agreement.

"Indebtedness" means and includes all Obligations that constitute "Indebtedness" within the meaning of the First Lien Credit Agreement or the Second Lien Credit Agreement, as applicable.

"Insolvency or Liquidation Proceeding" means the occurrence of an Event of Default under Sections 8.01(f) or (g) of the First Lien Credit Agreement and the proceedings resulting therefrom.

"Lender Counterparty" means the Lead Arranger and each First Lien Lender or any Affiliate of a First Lien Lender counterparty to a Hedge Agreement (including any Person who is a First Lien Lender (and any Affiliate thereof) as of the Closing Date but subsequently, whether before or after entering into a Hedge Agreement, ceases to be a First Lien Lender) including, without limitation, each such Affiliate that enters into a joinder agreement with the First Lien Collateral Agent.

"Lien" has the meaning specified in the First Lien Credit Agreement.

"Loan Party" has the meaning specified in the First Lien Credit Agreement.

"New Agent" has the meaning assigned to that term in Section 5.5.

"Obligations" means all obligations of every nature of each Grantor from time to time (including any Cash Management Obligations) to any agent or trustee, the First Lien Claimholders, the Second Lien Claimholders or any of them or their respective Affiliates, in each case under the First Lien Loan Documents, the Second Lien Loan Documents or Hedge

Agreements, whether for principal, interest or payments for early termination of Swap Contracts, fees, expenses, indemnification or otherwise and all guarantees of any of the foregoing.

"Person" means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, joint ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and Governmental Authorities.

"Pledged Collateral" has the meaning set forth in Section 5.4.

"PPSA" means the *Personal Property Security Act*, R.S.O. 1990, c.P.10, as now and hereafter in effect, or any successor statute, or any similar or equivalent legislation (including, without limitation, the Uniform Commercial Code) as in effect in any applicable jurisdiction.

"Recovery" has the meaning set forth in Section 6.5.

"Refinance" means, in respect of any Indebtedness, to refinance, extend, renew, defease, amend, modify, supplement, restructure, replace, refund or repay, or to issue other indebtedness, in exchange or replacement for, such Indebtedness in whole or in part. **"Refinanced"** and **"Refinancing"** shall have correlative meanings.

"Second Lien Claimholders" means, at any relevant time, the holders of Second Lien Obligations at that time, including the Second Lien Collateral Agent, the Second Lien Lenders, any other "Secured Party" (as defined in the Second Lien Credit Agreement) and the agents under the Second Lien Loan Documents.

"Second Lien Collateral" means the "Collateral" as defined in the Second Lien Collateral Documents.

"Second Lien Collateral Agent" has the meaning assigned to that term in the Preamble of this Agreement.

"Second Lien Collateral Documents" means the Collateral Documents as defined in the Second Lien Credit Agreement and any other agreement, document or instrument pursuant to which a Lien is granted securing any Second Lien Obligations or under which rights or remedies with respect to such Liens are governed.

"Second Lien Credit Agreement" has the meaning assigned to that term in the Recitals to this Agreement.

"Second Lien Guarantee" has the meaning assigned to that term in the Recitals to this Agreement.

"Second Lien Lenders" means the "Lenders" under and as defined in the Second Lien Credit Agreement.

"Second Lien Loan Documents" means the Second Lien Credit Agreement and the Loan Documents (as defined in the Second Lien Credit Agreement) and each of the other

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agreements, documents and instruments providing for or evidencing any other Second Lien Obligation, and any other document or instrument executed or delivered at any time in connection with any Second Lien Obligations, including any intercreditor or joinder agreement among holders of Second Lien Obligations to the extent such are effective at the relevant time, as each may be amended, restated, supplemented, modified, renewed or extended from time to time in accordance with the provisions of this Agreement.

"Second Lien Obligations" means all Obligations under the Second Lien Credit Agreement and the other Second Lien Loan Documents. "Second Lien Obligations" shall include all interest and other obligations accrued or accruing (or which would, absent commencement of an Insolvency or Liquidation Proceeding, accrue) after commencement of an Insolvency or Liquidation Proceeding in accordance with the rate specified in the relevant Second Lien Loan Document whether or not the claim for such interest or other obligation is allowed as a claim in such Insolvency or Liquidation Proceeding. To the extent any payment with respect to the Second Lien Obligations (whether by or on behalf of any Grantor, as proceeds of security, enforcement of any right of set off or otherwise) is declared to be fraudulent or preferential in any respect, set aside or required to be paid to a creditor, debtor in possession, trustee, receiver or similar person, then the obligation or part thereof originally intended to be satisfied shall be deemed to be reinstated and outstanding as if such payment had not occurred.

"Secured Parties" means the Secured Parties under and as defined in any First Lien Collateral Document and any Second Lien Collateral Document.

"Securities" means any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"Standstill Period" has the meaning set forth in Section 3.1.

"Subsidiary" has the meaning specified in the First Lien Credit Agreement.

"Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a **"Master Agreement"**), including any such obligations or liabilities

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under any Master Agreement. For greater certainty, any "eligible financial contract" as defined in the BIA shall constitute a Swap Contract.

"WURA" means the *Winding Up and Restructuring Act*, (Canada) as now and hereafter in effect, or any successor statute.

1.2 Terms Generally. The definitions of terms in this Agreement shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The word "will" shall be construed to have the same meaning and effect as the word "shall." Unless the context requires otherwise:

(a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, restated, supplemented, modified, renewed or extended;

(b) any reference herein to any Person shall be construed to include such Person's permitted successors and assigns;

(c) the words "herein," "hereof" and "hereunder," and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof;

(d) all references herein to Sections shall be construed to refer to Sections of this Agreement; and

(e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

SECTION 2. Lien Priorities.

2.1 Relative Priorities. Notwithstanding the date, time, method, manner or order of grant, attachment or perfection of any Liens granted in respect of the Collateral securing the Second Lien Obligations or of any Liens granted in respect of the Collateral securing the First Lien Obligations and notwithstanding any provision of the PPSA, or any other applicable law or the Second Lien Loan Documents or any defect or deficiencies in, or failure to perfect, the Liens securing the First Lien Obligations or any other circumstance whatsoever, the Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, hereby agrees that:

(a) any Lien on the Collateral securing any First Lien Obligations now or hereafter held by or on behalf of the First Lien Collateral Agent or any First Lien Claimholders or any agent or trustee therefor, regardless of how acquired, whether by judgment, grant, possession, statute, operation of law, subrogation or otherwise shall be senior and prior in all respects to any Liens on the Collateral securing any Second Lien Obligations, regardless of how acquired, whether by judgment, grant, possession, statute, operation of law, subrogation or otherwise; and

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(b) any Lien on the Collateral securing any Second Lien Obligations now or hereafter held by or on behalf of the Second Lien Collateral Agent, any Second Lien Claimholders or any agent or trustee therefor regardless of how acquired, whether by judgment, grant, possession, statute, operation of law, subrogation or otherwise, shall be junior and subordinate in all respects to any Liens on the Collateral securing any First Lien Obligations. All Liens on the Collateral securing any First Lien Obligations shall be and remain senior and prior in all respects to all Liens on the Collateral securing any Second Lien Obligations for all purposes, whether or not such Liens securing any First Lien Obligations are subordinated to any Lien securing any other obligation of the Company, any other Grantor or any other Person. The Second Lien Collateral Agent for itself and on behalf of the Second Lien Claimholders expressly agrees that any Lien purported to be granted on any Collateral as security for the First Lien Obligations shall be and remain senior and prior in all respects to all Liens on the Collateral securing any Second Lien Obligations for all purposes regardless of whether the Lien purported to be granted is found to be improperly granted, improperly perfected, a fraudulent conveyance, a preference or legally or otherwise deficient in any manner.

2.2 Prohibition on Contesting Liens. Each of the Second Lien Collateral Agent, for itself and on behalf of each Second Lien Claimholder, and the First Lien Collateral Agent, for itself and on behalf of each First Lien Claimholder, agrees that it will not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the perfection, priority, validity or enforceability of a Lien held by or on behalf of any of the First Lien Claimholders in the First Lien Collateral or by or on behalf of any of the Second Lien Claimholders in the Second Lien Collateral, as the case may be, or the provisions of this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of the First Lien Collateral Agent or any First Lien Claimholder to enforce this Agreement, including the provisions of this Agreement relating to the priority of the Liens securing the First Lien Obligations as provided in Sections 2.1 and 3.1.

2.3 No New Liens. So long as the Discharge of First Lien Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, the parties hereto agree that the Company and Holdings shall not, and shall not permit any other Grantor to:

(a) grant or permit any additional Liens on any asset or property to secure any Second Lien Obligation unless it has granted or concurrently grants a Lien on such asset or property to secure the First Lien Obligations; or

(b) grant or permit any additional Liens on any asset or property to secure any First Lien Obligations unless it has granted or concurrently grants a Lien on such asset or property to secure the Second Lien Obligations.

To the extent that the foregoing provisions are not complied with for any reason, without limiting any other rights and remedies available to the First Lien Collateral Agent and/or the First Lien Claimholders, the Second Lien Collateral Agent, on behalf of Second Lien Claimholders, agrees that any amounts received by or distributed to any of them pursuant to or as a result of Liens granted in contravention of this Section 2.3 shall be subject to Section 4.2.

2.4 Similar Liens and Agreements. The parties hereto agree that it is their intention that the First Lien Collateral and the Second Lien Collateral be identical, to the extent legally practicable. In furtherance of the foregoing and of Section 8.9, the parties hereto agree, subject to the other provisions of this Agreement:

(a) upon request by the First Lien Collateral Agent or the Second Lien Collateral Agent, to cooperate in good faith (and to direct their counsel and other advisors to cooperate in good faith) from time to time in order to determine the specific items included in the First Lien Collateral and the Second Lien Collateral and the steps taken to perfect their respective Liens thereon and the identity of the respective parties obligated under the First Lien Loan Documents and the Second Lien Loan Documents;

(b) that the documents and agreements creating or evidencing the First Lien Collateral and the Second Lien Collateral and guarantees for the First Lien Obligations and the Second Lien Obligations, subject to Section 5.3(d), shall be in all material respects the same forms of documents other than with respect to (i) the first lien and the second lien nature of the Obligations thereunder and (ii) the delivery of Collateral, the security interest in which may be perfected only by possession or control by a single person of such Collateral prior to the Discharge of First Lien Obligations.

SECTION 3. Enforcement.

3.1 Exercise of Remedies.

(a) Until the Discharge of First Lien Obligations has occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, the Second Lien Collateral Agent and the Second Lien Claimholders:

(1) will not exercise or seek to exercise any rights or remedies with respect to any Collateral (including the exercise of any right of setoff or any right under any lockbox agreement, account control agreement, landlord waiver or bailee's letter or similar agreement or arrangement to which the Second Lien Collateral Agent or any Second Lien Claimholder is a party), institute any action or proceeding with respect to such rights or remedies (including any action of foreclosure or other enforcement step or action under the Second Lien Documents, the PPSA or applicable law); provided, however, that the Second Lien Collateral Agent may exercise any or all such rights (but not rights the exercise of which is otherwise prohibited by this Agreement including Section 6 hereof) after the passage of a period of at least 180 days has elapsed since the date on which the First Lien Collateral Agent receives notice from the Second Lien Collateral Agent of the existence of any Event of Default under the Second Lien Credit Agreement, (the "Standstill Period"); provided, further, however, that notwithstanding anything herein to the contrary, in no event shall the Second Lien Collateral Agent or any Second Lien Claimholder exercise any rights or remedies with respect to the Collateral if, notwithstanding the expiration of the Standstill Period, the First Lien Collateral Agent or First Lien Claimholders shall have commenced (or attempted to commence or given notice of its intent to commence) and be diligently pursuing the exercise of their rights or remedies with respect to all or any material portion of the Collateral (prompt notice of such exercise to be given to the Second Lien Collateral Agent);

(2) will not contest, protest or object to, any foreclosure proceeding or action brought by the First Lien Collateral Agent or any First Lien Claimholder on Collateral located in the United States, any power of sale or other disposition of collateral under s.63 of the PPSA or similar legislation on Collateral located in Canada (including, without limitation, any legislation relating to real property), or any other exercise by the First Lien Collateral Agent or any First Lien Claimholder of any rights and remedies relating to the Collateral under the First Lien Loan Documents or otherwise; and

(3) subject to their rights under clause (a)(1) above and except as may be permitted in Section 3.1(c), will not object to the forbearance by the First Lien Collateral Agent or the First Lien Claimholders from bringing or pursuing any foreclosure proceeding or action on Collateral located in the United States, or any power of sale or other disposition of collateral under s.63 of the PPSA or similar legislation on Collateral located in Canada (including, without limitation, any legislation relating to real property), or any other exercise of any rights or remedies relating to the Collateral;

provided, that in the case of (1), (2) and (3) above, the Liens granted to secure the Second Lien Obligations of the Second Lien Claimholders shall attach to any proceeds resulting from actions taken by the First Lien Collateral Agent or any First Lien Claimholder in accordance with this Agreement after application of such proceeds to the extent necessary to effect a Discharge of First Lien Obligations.

(b) Until the Discharge of First Lien Obligations has occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, subject to Section 3.1(a)(1), the First Lien Collateral Agent and the First Lien Claimholders shall have the right to enforce rights, exercise remedies (including set off and the right to credit bid their debt which, to the extent the Collateral is located in Canada, will be subject to applicable law in Canada or any order of a Court that has jurisdiction over such matters in Canada) and make determinations regarding the release, disposition, or restrictions with respect to the Collateral without any consultation with or the consent of the Second Lien Collateral Agent or any Second Lien Claimholder, provided, that the Lien securing the Second Lien Obligations shall remain on the proceeds of such Collateral released or disposed of subject to the relative priorities described in Section 2. In exercising rights and remedies with respect to the Collateral, the First Lien Collateral Agent and the First Lien Claimholders may enforce the provisions of the First Lien Loan Documents and exercise remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion. Such exercise and enforcement shall include the rights of an agent, receiver, or receiver and manager appointed by them to sell or otherwise dispose of collateral upon foreclosure (for Collateral located in the United States) or power of sale or other dispositions of collateral for Collateral located in Canada, to incur expenses in connection with such sale or disposition, and to exercise all the rights and remedies of a secured creditor under (x) the PPSA or (y) any legislation relating to real property and of a secured creditor under Bankruptcy Laws of any applicable jurisdiction.

(c) Notwithstanding the foregoing, the Second Lien Collateral Agent and any Second Lien Claimholder may:

(1) file a claim or statement of interest with respect to the Second Lien Obligations; provided that an Insolvency or Liquidation Proceeding has been commenced

by or against the Company or any other Grantor (and may take such other action as it deems in good faith to be necessary to protect its rights in such proceeding);

(2) take any action (not adverse to the priority status of the Liens on the Collateral securing the First Lien Obligations, or the rights of the First Lien Collateral Agent or any of the First Lien Claimholders to exercise remedies in respect thereof) in order to create, perfect, preserve or protect its Lien on the Second Lien Collateral;

(3) file any necessary responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any person objecting to or otherwise seeking the disallowance of the claims of the Second Lien Claimholders, including any claims secured by the Collateral, if any, in each case in accordance with the terms of this Agreement;

(4) file any pleadings, objections, motions or agreements which assert rights or interests available to unsecured creditors of the Grantors arising under either any Insolvency or Liquidation Proceeding or applicable non-bankruptcy law, in each case not inconsistent with the terms of this Agreement;

(5) vote on any plan of compromise, arrangement and/or reorganization, file any proof of claim, make other filings and make any arguments and motions that are, in each case, in accordance with the terms of this Agreement, with respect to the Second Lien Obligations and the Collateral; and

(6) exercise any of its rights or remedies with respect to the Collateral after the termination of the Standstill Period to the extent permitted by Section 3.1(a)(1).

The Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, agrees that it will not take or receive any Collateral or any proceeds of Collateral in connection with the exercise of any right or remedy (including set-off) with respect to any Collateral in its capacity as a creditor in violation of this Agreement. Without limiting the generality of the foregoing, unless and until the Discharge of First Lien Obligations has occurred, except as expressly provided in Sections 3.1(a), 6.3(b) and this Section 3.1(c), the sole right of the Second Lien Collateral Agent and the Second Lien Claimholders with respect to the Collateral is to hold a Lien on the Collateral pursuant to the Second Lien Collateral Documents for the period and to the extent granted therein and to receive a share of the proceeds thereof, if any, after the Discharge of First Lien Obligations has occurred.

(d) Subject to Sections 3.1(a) and (c) and Section 6.3(b):

(1) the Second Lien Collateral Agent, for itself and on behalf of the Second Lien Claimholders, agrees that the Second Lien Collateral Agent and the Second Lien Claimholders will not take any action that would hinder any exercise of remedies under the First Lien Loan Documents or is otherwise prohibited hereunder, including any sale, lease, exchange, transfer or other disposition of the Collateral, whether by foreclosure or otherwise;

(2) the Second Lien Collateral Agent, for itself and on behalf of the Second Lien Claimholders, hereby waives any and all rights it or the Second Lien

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Claimholders may have as a junior lien creditor or otherwise to object to the manner in which the First Lien Collateral Agent or the First Lien Claimholders seek to enforce or collect the First Lien Obligations or the Liens securing the First Lien Obligations granted in any of the First Lien Collateral undertaken in accordance with this Agreement, regardless of whether any action or failure to act by or on behalf of the First Lien Collateral Agent or First Lien Claimholders is adverse to the interest of the Second Lien Claimholders; and

(3) the Second Lien Collateral Agent hereby acknowledges and agrees that no covenant, agreement or restriction contained in the Second Lien Collateral Documents or any other Second Lien Document (other than this Agreement) shall be deemed to restrict in any way the rights and remedies of the First Lien Collateral Agent or the First Lien Claimholders with respect to the Collateral as set forth in this Agreement and the First Lien Loan Documents.

(e) Except as otherwise specifically set forth in Sections 3.1(a) and (d), the Second Lien Collateral Agent and the Second Lien Claimholders may exercise rights and remedies as unsecured creditors against the Company or any other Grantor that has guaranteed or granted Liens to secure the Second Lien Obligations in accordance with the terms of the Second Lien Loan Documents and applicable law; provided that in the event that any Second Lien Claimholder becomes a judgment creditor in respect of Collateral as a result of its enforcement of its rights as an unsecured creditor with respect to the Second Lien Obligations, such judgment Lien shall be subject to the terms of this Agreement for all purposes (including in relation to the First Lien Obligations) as the other Liens securing the Second Lien Obligations are subject to this Agreement.

(f) Except as set forth in Section 3.1(a) and Section 4, to the extent applicable, nothing in this Agreement shall prohibit the receipt by the Second Lien Collateral Agent or any Second Lien Claimholders of the required payments of interest, principal and other amounts owed in respect of the Second Lien Obligations or receipt of payments permitted under the First Lien Loan Documents, including without limitation, under Section 7.09(a) of the First Lien Credit Agreement so long as such receipt is not the direct or indirect result of the exercise by the Second Lien Collateral Agent or any Second Lien Claimholders of rights or remedies as a secured creditor (including set off) or enforcement in contravention of this Agreement. Nothing in this Agreement impairs or otherwise adversely affects any rights or remedies the First Lien Collateral Agent or the First Lien Claimholders may have with respect to the First Lien Collateral.

(g) In exercising rights and remedies with respect to the Collateral, the First Lien Collateral Agent and the First Lien Claimholders may enforce the provisions of the First Lien Loan Documents and any loan documents executed in connection with any DIP Financing provided by a First Lien Lender and exercise remedies thereunder, all in such order and in such manner as they may determine in the exercise of their sole discretion. Such exercise and enforcement shall include the rights of an agent, receiver, receiver and manager or similar person appointed by them to sell or otherwise dispose of Collateral upon foreclosure, to incur expenses in connection with such sale or disposition, and to exercise all the rights and remedies of a secured creditor under the PPSA or equivalent of any applicable jurisdiction and of a secured creditor under Bankruptcy Laws of any applicable jurisdiction. The First Lien Collateral Agent agrees to provide the lesser of (x) five (5) days' or (y) the number of days remaining in the

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Standstill Period, notice to the Second Lien Collateral Agent of its intent to exercise and enforce its rights or remedies with respect to the Collateral. If the Second Lien Collateral Agent or any Second Lien Claimholder exercises any rights or remedies with respect to the Collateral in accordance with Section 3.1(a)(1) and thereafter the First Lien Collateral Agent or First Lien Claimholders commence (or attempt to commence or given notice of their intent to commence) the exercise of any of their rights or remedies with respect to the Collateral (including seeking relief from the automatic stay or any other stay in any Insolvency or Liquidation Proceeding), the Standstill Period shall recommence and the Second Lien Collateral Agent and the Second Lien Claimholders shall, at the request of the First Lien Collateral Agent, rescind any such rights or remedies already exercised with respect to the Collateral.

3.2 Cooperation. During a Standstill Period, the Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, agrees that, unless and until the Discharge of First Lien Obligations has occurred, it will not commence, or join with any Person in commencing, any enforcement, collection, involuntary petition, execution, levy or foreclosure action or proceeding (including, without limitation, any Insolvency or Liquidation Proceeding) with respect to any Lien held by it under the Second Lien Loan Documents or otherwise.

SECTION 4. Payments.

4.1 Application of Proceeds. So long as the Discharge of First Lien Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, any Collateral or proceeds thereof received by the First Lien Collateral Agent in connection with the sale or other disposition of, or collection on, such Collateral upon the exercise of remedies by the First Lien Collateral Agent or First Lien Claimholders (including any right of set-off), shall be applied by the First Lien Collateral Agent to the First Lien Obligations in such order as specified in the relevant First Lien Loan Documents. Upon the Discharge of First Lien Obligations, the First Lien Collateral Agent shall deliver to the Second Lien Collateral Agent any Collateral and proceeds of Collateral held by it in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct to be applied by the Second Lien Collateral Agent to the Second Lien Obligations in such order as specified in the Second Lien Collateral Documents.

4.2 Payments Over in Violation of Agreement. So long as the Discharge of First Lien Obligations has not occurred, whether or not any Insolvency or Liquidation Proceeding has been commenced by or against the Company or any other Grantor, any Collateral or proceeds thereof received by the Second Lien Collateral Agent or any Second Lien Claimholders in connection with the existence of any right or remedy in contravention of this Agreement shall be segregated and held in trust and forthwith paid over to the First Lien Collateral Agent for the benefit of the First Lien Claimholders in the same form as received, with any necessary endorsements or as a court of competent jurisdiction may otherwise direct. The First Lien Collateral Agent is hereby authorized to make any such endorsements as agent for the Second Lien Collateral Agent or any such Second Lien Claimholders. This authorization is coupled with an interest and is irrevocable until the Discharge of First Lien Obligations.

SECTION 5. Other Agreements.

5.1 Releases.

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(a) If in connection with the exercise of the First Lien Collateral Agent's remedies in respect of the Collateral provided for in Section 3.1, the First Lien Collateral Agent, for itself or on behalf of any of the First Lien Claimholders, releases any of its Liens on any part of the Collateral or releases any Grantor from its obligations under its guarantee of the First Lien Obligations in connection with the sale of the stock, or substantially all the assets, of such Grantor, then the Liens, if any, of the Second Lien Collateral Agent, for itself or for the benefit of the Second Lien Claimholders, on such Collateral, and the obligations of such Grantor under its guarantee of the Second Lien Obligations, shall be automatically, unconditionally and simultaneously released but shall continue in the proceeds of such Collateral. The Second Lien Collateral Agent, for itself or on behalf of any such Second Lien Claimholders, promptly shall execute and deliver to the First Lien Collateral Agent or such Grantor such termination statements, releases and other documents as the First Lien Collateral Agent or such Grantor may request to effectively confirm such release.

(b) If in connection with any sale, lease, exchange, transfer or other disposition of any Collateral (collectively, a "**Disposition**") permitted under the terms of both the First Lien Loan Documents and the Second Lien Loan Documents (other than in connection with the exercise of the First Lien Collateral Agent's remedies in respect of the Collateral provided for in Section 3.1), the First Lien Collateral Agent, for itself or on behalf of any of the First Lien Claimholders, releases any of its Liens on any part of the Collateral, or releases any Grantor from its obligations under its guarantee of the First Lien Obligations in connection with the sale of the stock, or substantially all the assets, of such Grantor, in each case other than in connection with the Discharge of First Lien Obligations, then the Liens, if any, of the Second Lien Collateral Agent, for itself or for the benefit of the Second Lien Claimholders, on such Collateral, and the obligations of such Grantor under its guarantee of the Second Lien Obligations, shall be automatically, unconditionally and simultaneously released. The Second Lien Collateral Agent, for itself or on behalf of any such Second Lien Claimholders, promptly shall execute and deliver to the First Lien Collateral Agent or such Grantor such termination statements, releases and other documents as the First Lien Collateral Agent or such Grantor may request to effectively confirm such release.

(c) Until the Discharge of First Lien Obligations occurs, the Second Lien Collateral Agent, for itself and on behalf of the Second Lien Claimholders, hereby irrevocably constitutes and appoints the First Lien Collateral Agent and any officer or agent of the First Lien Collateral Agent, with full power of substitution, as its true and lawful attorney in fact with full irrevocable power and authority in the place and stead of the Second Lien Collateral Agent or such holder or in the First Lien Collateral Agent's own name, from time to time in the First Lien Collateral Agent's discretion, for the purpose of carrying out the terms of this Section 5.1, to take any and all appropriate action and to execute any and all documents and instruments which may be necessary to accomplish the purposes of this Section 5.1, including any endorsements or other instruments of transfer or release.

(d) Until the Discharge of First Lien Obligations occurs, to the extent that the First Lien Collateral Agent or the First Lien Claimholders (i) have released any Lien on Collateral or any Grantor from its obligation under its guarantee and any such Liens or guarantee are later reinstated or (ii) obtain any new liens or additional guarantees from any Grantor, then the Second Lien Collateral Agent, for itself and for the Second Lien Claimholders, shall be

granted a Lien on any such Collateral, subject to the lien subordination provisions of this Agreement, and an additional guarantee, as the case may be.

5.2 Insurance. Unless and until the Discharge of First Lien Obligations has occurred, subject to the terms of, and the rights of the Grantors under, the First Lien Loan Documents, the First Lien Collateral Agent and the First Lien Claimholders shall have the sole and exclusive right to adjust settlement for any insurance policy covering the Collateral in the event of any loss thereunder and to approve any award granted in any condemnation or similar proceeding (or any deed in lieu of condemnation) affecting the Collateral. Unless and until the Discharge of First Lien Obligations has occurred, and subject to the rights of the Grantors under the First Lien Loan Documents, all proceeds of any such policy and any such award (or any payments with respect to a deed in lieu of condemnation) if in respect to the Collateral and to the extent required by the First Lien Loan Documents shall be paid to the First Lien Collateral Agent for the benefit of the First Lien Claimholders pursuant to the terms of the First Lien Loan Documents (including, without limitation, for purposes of cash collateralization of letters of credit) and thereafter, to the extent no First Lien Obligations are outstanding, and subject to the rights of the Grantors under the Second Lien Collateral Documents, to the Second Lien Collateral Agent for the benefit of the Second Lien Claimholders to the extent required under the Second Lien Collateral Documents and then, to the extent no Second Lien Obligations are outstanding, to the owner of the subject property, such other Person as may be entitled thereto or as a court of competent jurisdiction may otherwise direct. Until the Discharge of First Lien Obligations has occurred, if the Second Lien Collateral Agent or any Second Lien Claimholders shall, at any time, receive any proceeds of any such insurance policy or any such award or payment in contravention of this Agreement, it shall segregate and hold in trust and forthwith pay such proceeds over to the First Lien Collateral Agent in accordance with the terms of Section 4.2.

5.3 Amendments to First Lien Loan Documents and Second Lien Loan Documents. (a) The First Lien Loan Documents may be amended, supplemented or otherwise modified in accordance with their terms (including the increase of the principal amount thereof as provided therein) and the First Lien Credit Agreement may be Refinanced, in each case, without notice to, or the consent of the Second Lien Collateral Agent or the Second Lien Claimholders, all without affecting the lien subordination or other provisions of this Agreement; provided, however, that the holders of such Refinancing debt bind themselves in writing to the Second Lien Collateral Agent and the Second Lien Claimholders to the terms of this Agreement and any such amendment, supplement, modification or Refinancing shall not, without the consent of the Second Lien Collateral Agent:

- (1) increase the "Applicable Margin" or similar component of the interest rate by more than 3% per annum (excluding increases resulting from the accrual of interest at the default rate);
- (2) extend the scheduled maturity of the First Lien Credit Agreement or any Refinancing thereof beyond the scheduled maturity of the Second Lien Credit Agreement or any Refinancing thereof; or
- (3) contravene the provisions of this Agreement.

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(b) Without the prior written consent of the First Lien Collateral Agent, no Second Lien Loan Document may be Refinanced, amended, supplemented or otherwise modified or entered into to the extent such Refinancing, amendment, supplement or modification, or the terms of any new Second Lien Loan Document, would:

(1) increase the principal amount of the Second Lien Credit Agreement in excess of the amount permitted under the First Lien Credit Agreement;

(2) increase the "Applicable Margin" or similar component of the interest rate or yield provisions applicable to the Second Lien Obligations by more than 3% per annum (excluding increases resulting from the accrual of interest at the default rate);

(3) change any default or event of default thereunder in a manner adverse to the Loan Parties thereunder unless a corresponding change is made to the First Lien Loan Documents (other than to eliminate any such event of default or increase any grace period related thereto or otherwise make such event of default or condition less restrictive or burdensome on the Loan Parties) or add an event of default;

(4) change to earlier dates any dates upon which payments of principal or interest are due thereon;

(5) make more burdensome the prepayment provisions thereof;

(6) increase materially the obligations of the Loan Parties thereunder or to confer any additional material rights on the lenders under the Second Lien Credit Agreement (or a representative on their behalf) which would be adverse to any Loan Party or First Lien Lenders unless a corresponding change is made to the First Lien Loan Documents; or

(7) contravene the provisions of this Agreement.

The Second Lien Credit Agreement may be Refinanced to the extent the terms and conditions of such Refinancing debt meet the requirements of the First Lien Loan Documents and this Section 5.3(b), the average life to maturity thereof is greater than or equal to that of the Second Lien Credit Agreement and the holders of such Refinancing debt bind themselves in writing to the First Lien Collateral Agent and the First Lien Claimholders to the terms of this Agreement.

(c) The Company agrees that each Second Lien Collateral Document shall include the following language (or language to similar effect approved by the First Lien Collateral Agent):

"Notwithstanding anything herein to the contrary, the lien and security interest granted to the Second Lien Collateral Agent pursuant to this Agreement and the exercise of any right or remedy by the Second Lien Collateral Agent hereunder are subject to the provisions of the Intercreditor Agreement, dated as of July 5, 2007 (as amended, restated, supplemented or otherwise modified from

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time to time, the "Intercreditor Agreement"), among Nelson Education Ltd., Nelson Education Holdings Ltd., Royal Bank of Canada, as First Lien Collateral Agent and Royal Bank of Canada, as Second Lien Collateral Agent and certain other persons party or that may become party thereto from time to time. In the event of any conflict between the terms of the Intercreditor Agreement and this Agreement, the terms of the Intercreditor Agreement shall govern and control."

(d) In the event the First Lien Collateral Agent or the First Lien Claimholders and the relevant Grantor enter into any amendment, waiver or consent in respect of any of the First Lien Collateral Documents for the purpose of adding to, or deleting from, or waiving or consenting to any departures from any provisions of, any First Lien Collateral Document or changing in any manner the rights of the First Lien Collateral Agent, such First Lien Claimholders, the Company or any other Grantor thereunder, then such amendment, waiver or consent shall apply automatically to any comparable provision of the Comparable Second Lien Collateral Document without the consent of the Second Lien Collateral Agent or the Second Lien Claimholders and without any action by the Second Lien Collateral Agent, the Company or any other Grantor, provided, that:

(1) no such amendment, waiver or consent shall have the effect of:

(A) removing or releasing assets subject to the Lien of the Second Lien Collateral Documents, except to the extent that a release of such Lien is permitted or required by Section 5.1 of this Agreement and provided that there is a corresponding release of the Liens securing the First Lien Obligations;

(B) imposing duties on the Second Lien Collateral Agent without its consent; or

(C) permitting other Liens on the Collateral not permitted under the terms of the Second Lien Loan Documents or Section 6; and

(2) notice of such amendment, waiver or consent shall have been given to the Second Lien Collateral Agent within ten (10) Business Days after the effective date of such amendment, waiver or consent.

5.4 Bailee for Perfection.

(a) The First Lien Collateral Agent agrees to hold that part of the Collateral that is in its possession or control (or in the possession or control of its agents or bailees), to the extent that possession thereof is taken to perfect a Lien thereon under the PPSA (such Collateral being the "Pledged Collateral") for the benefit of and on behalf of the First Lien Claimholders, the Second Lien Collateral Agent and the Second Lien Claimholders and any assignee solely for the purpose of perfecting the security interest granted under the First Lien Loan Documents and the Second Lien Loan Documents, subject to the terms and conditions of this Section 5.4. In addition, solely for the purpose of perfecting the security interest granted in such Pledged Collateral pursuant to the Second Lien Collateral Documents, and subject to the terms and conditions of this Section 5.4, the First Lien Collateral Agent agrees to hold the Pledged

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Collateral that is part of the Collateral in its possession or control (or in the possession or control of its agents or bailees) as bailee for the Second Lien Collateral Agent.

(b) The First Lien Collateral Agent shall have no obligation whatsoever to the First Lien Claimholders, the Second Lien Collateral Agent or any Second Lien Claimholder to ensure that the Pledged Collateral is genuine or owned by any of the Grantors or to preserve rights or benefits of any Person except as expressly set forth in this Section 5.4. The duties or responsibilities of the First Lien Collateral Agent under this Section 5.4 shall be limited solely to holding the Pledged Collateral for the benefit of and on behalf of the First Lien Claimholders and the Second Lien Collateral Agent in accordance with this Section 5.4 and delivering the Pledged Collateral upon a Discharge of First Lien Obligations as provided in paragraph (d) below.

(c) The First Lien Collateral Agent acting pursuant to this Section 5.4 shall not have by reason of the First Lien Collateral Documents, the Second Lien Collateral Documents, this Agreement or any other document or theory a fiduciary relationship in respect of the First Lien Claimholders, the Second Lien Collateral Agent or any Second Lien Claimholder.

(d) Upon the Discharge of First Lien Obligations under the First Lien Loan Documents to which the First Lien Collateral Agent is a party, the First Lien Collateral Agent shall deliver the remaining Pledged Collateral (if any) together with any necessary endorsements, first, to the Second Lien Collateral Agent to the extent Second Lien Obligations remain outstanding, and second, to the Company to the extent no First Lien Obligations or Second Lien Obligations remain outstanding (in each case, so as to allow such Person to obtain possession or control of such Pledged Collateral), and the First Lien Collateral Agent further agrees to take all other action reasonably requested by the Second Lien Collateral Agent in connection with the Second Lien Collateral Agent obtaining a first priority interest in the Pledged Collateral or as a court of competent jurisdiction may otherwise direct.

(e) Subject to the terms of this Agreement, so long as the Discharge of First Lien Obligations has not occurred, the First Lien Collateral Agent shall be entitled to deal with the Pledged Collateral or Collateral within its "control" in accordance with the terms of this Agreement and other First Lien Loan Documents as if the Liens of the Second Lien Collateral Agent and Second Lien Claimholders did not exist.

5.5 When Discharge of First Lien Obligations Deemed Not to Have Occurred.

If concurrently with the Discharge of First Lien Obligations, the Company thereafter enters into any Refinancing of a First Lien Obligation which Refinancing is permitted by the Second Lien Loan Documents, then such Discharge of First Lien Obligations shall automatically be deemed not to have occurred for all purposes of this Agreement (other than with respect to any actions taken as a result of the occurrence of such first Discharge of First Lien Obligations), and, from and after the date on which the New First Lien Debt Notice is delivered to the Second Lien Collateral Agent in accordance with the next sentence, the obligations under such Refinancing of the First Lien Obligations shall automatically be treated as First Lien Obligations for all purposes of this Agreement, including for purposes of the Lien priorities and rights in respect of Collateral set forth herein, and the first lien collateral agent under such First Lien Loan Documents shall be the First Lien Collateral Agent for all purposes of this Agreement. Upon receipt of a notice (the "New First Lien Debt Notice") stating that the Company has entered into a new First Lien Loan Document (which notice shall include the identity of the new first lien collateral agent, such

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agent, the "New Agent"), the Second Lien Collateral Agent shall promptly (a) enter into such documents and agreements (including amendments or supplements to this Agreement) as the Company or such New Agent shall request in order to provide to the New Agent the rights contemplated hereby, in each case consistent in all material respects with the terms of this Agreement and (b) deliver to the New Agent any Pledged Collateral held by it together with any necessary endorsements (or otherwise allow the New Agent to obtain control of or to dispose of such Pledged Collateral). The New Agent shall agree in a writing addressed to the Second Lien Collateral Agent and the Second Lien Claimholders to be bound by the terms of this Agreement. If the new First Lien Obligations under the new First Lien Loan Documents are secured by assets of the Grantors constituting Collateral that do not also secure the Second Lien Obligations, then the Second Lien Obligations shall be secured at such time by a second priority Lien on such assets to the same extent provided in the Second Lien Collateral Documents and this Agreement.

5.6 Purchase Right. Without prejudice to the enforcement of the First Lien Claimholders' remedies, the First Lien Claimholders agree that following (a) acceleration of the First Lien Obligations in accordance with the terms of the First Lien Credit Agreement, (b) a payment default under the First Lien Credit Agreement that has not been cured or waived by the First Lien Claimholders within sixty (60) days of the occurrence thereof or (c) the commencement of an Insolvency or Liquidation Proceeding (each, a "Purchase Event"), within thirty (30) days of the Purchase Event, one or more of the Second Lien Claimholders may request in writing, and the First Lien Claimholders hereby offer the Second Lien Claimholders the option, to purchase all, but not less than all, of the aggregate amount of outstanding First Lien Obligations outstanding at the time of purchase at par, plus accrued interest (without regard to any prepayment penalty or premium but without prejudice to the Company's obligations, if any, with respect to the same), without warranty or representation or recourse (except for representations and warranties required to be made by assigning lenders pursuant to the Assignment and Assumption (as such term is defined in the First Lien Credit Agreement)). If such purchase right is exercised, the parties shall endeavor to close promptly thereafter but in any event within ten (10) Business Days of the request. If one or more of the Second Lien Claimholders exercise such purchase right, it shall be exercised pursuant to documentation mutually acceptable to each of the First Lien Collateral Agent and the Second Lien Collateral Agent. If none of the Second Lien Claimholders exercise such right, the First Lien Claimholders shall have no further obligations pursuant to this Section 5.6 for such Purchase Event and may take any further actions in their sole discretion in accordance with the First Lien Loan Documents and this Agreement. For avoidance of doubt, each Second Lien Claimholder electing to exercise such option shall have the option to purchase up such Second Lien Claimholder's pro rata share of the First Lien Obligations (such pro rata share being based on the principal amount of Second Lien Obligations held by such Second Lien Claimholder participating in such purchase).

SECTION 6. Insolvency or Liquidation Proceedings.

6.1 Finance and Sale Issues.

(a) Until the Discharge of First Lien Obligations has occurred, if the Company or any other Grantor shall be subject to any Insolvency or Liquidation Proceeding and the First Lien Collateral Agent shall desire to permit the use of "Cash Collateral" (as such term is defined in Section 363(a) of the Bankruptcy Code), on which the First Lien Collateral Agent or any other creditor has a Lien or to permit the Company or any other Grantor to obtain debtor-in-possession or other financing, whether from the First Lien Claimholders or any other Person,

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under Section 364 of the Bankruptcy Code or any similar Bankruptcy Law ("**DIP Financing**"), then the Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, agrees that it will (a) raise no objection to such use of cash collateral or DIP Financing and will not request adequate protection or any other relief in connection therewith (except as expressly agreed by the First Lien Collateral Agent or to the extent permitted by Section 6.3), (b) agrees that notice received two calendar days prior to the entry of an order approving such usage of cash collateral or approving such financing shall be adequate notice and (c) to the extent the Liens securing the First Lien Obligations are subordinated or *pari passu* with such DIP Financing, the Second Lien Collateral Agent will subordinate its Liens in the Collateral to (x) the Liens securing such DIP Financing (and all obligations relating thereto), (y) any adequate protection provided to the First Lien Collateral Agent or the First Lien Claimholders or (z) any "carve-out" agreed by the First Lien Collateral Agent or First Lien Claimholders. The Second Lien Collateral Agent on behalf of the Second Lien Claimholders, agrees that it will raise no objection or oppose a sale or other disposition of any Collateral free and clear of its Liens or other claims under Section 363 of the Bankruptcy Code (or any similar provision of any other Bankruptcy Law or any order of a court of competent jurisdiction) if the First Lien Claimholders have consented to such sale or disposition of such assets and the Second Lien Collateral Agent and each other Second Lien Claimholder will be deemed to have consented under Section 363 of the Bankruptcy Code (or any similar provision of any other Bankruptcy Law or any order of a court of competent jurisdiction) to any sale supported by the First Lien Claimholders and to have released their Liens in such assets.

(b) Under any Insolvency or Liquidation Proceeding involving the Company or any other Grantor in Canada, whether ancillary or plenary, until the Discharge of First Lien Obligations has occurred, the Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, agrees that it shall: (i) not provide or consent to any DIP Financing for the Company or any other Grantor that provides for a court ordered charge or other Lien on the Collateral in priority to the Lien on the Collateral in favour of the First Lien Collateral Agent or the First Lien Claimholders, without the prior written consent of the First Lien Collateral Agent; and (ii) not object to or seek any other relief, or file any motion, application or other action in respect of (x) any DIP Financing that is provided to the Company or any other Grantor by the First Lien Collateral Agent or any First Lien Lender or with the consent of the First Lien Lenders, or (y) any court ordered charge or Lien made or granted on the Collateral in respect thereof.

6.2 Relief from the Stay. Until the Discharge of First Lien Obligations has occurred, the Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, agrees that none of them shall seek (or support any other Person seeking) relief from the automatic stay or any other stay or stay of proceedings in any Insolvency or Liquidation Proceeding in respect of the Collateral, the Company or any other Grantor or any of their creditors without the prior written consent of the First Lien Collateral Agent.

6.3 Adequate Protection.

(a) The Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, agrees that none of them shall contest (or support any other Person contesting):

(1) any request by the First Lien Collateral Agent or the First Lien Claimholders for adequate protection;

(2) any objection by the First Lien Collateral Agent or the First Lien Claimholders to any motion, relief, action or proceeding based on the First Lien Collateral Agent or the First Lien Claimholders claiming a lack of adequate protection; or

(3) the payment of interest, fees, expenses or other amounts to the First Lien Collateral Agent or any other First Lien Claimholder under Section 506(b) or 506(c) of the Bankruptcy Code or (or any similar provision of any other Bankruptcy Law or any order of a court of competent jurisdiction).

(b) Notwithstanding the foregoing provisions in this Section 6.3, in any Insolvency or Liquidation Proceeding:

(1) if the First Lien Claimholders (or any subset thereof) are granted adequate protection in the form of additional collateral in connection with any Cash Collateral use or DIP Financing, then the Second Lien Collateral Agent, on behalf of itself or any of the Second Lien Claimholders, may seek or request adequate protection in the form of a Lien on such additional collateral, which Lien will be subordinated to the Liens securing the First Lien Obligations and such Cash Collateral use or DIP Financing (and all Obligations relating thereto) on the same basis as the other Liens securing the Second Lien Obligations are so subordinated to the First Lien Obligations under this Agreement; and

(2) in the event the Second Lien Collateral Agent, on behalf of itself or any of the Second Lien Claimholders, seeks or requests adequate protection in respect of Second Lien Obligations and such adequate protection is granted in the form of additional collateral, then the Second Lien Collateral Agent, on behalf of itself or any of the Second Lien Claimholders, agrees that the First Lien Collateral Agent shall, also be granted a senior Lien on such additional collateral as security for the First Lien Obligations and for any Cash Collateral use or DIP Financing provided by the First Lien Claimholders and that any Lien on such additional collateral securing the Second Lien Obligations shall be subordinated to the Lien on such collateral securing the First Lien Obligations and any such DIP Financing provided by the First Lien Claimholders (and all Obligations relating thereto) and to any other Liens granted to the First Lien Claimholders as adequate protection on the same basis as the other Liens securing the Second Lien Obligations are so subordinated to such First Lien Obligations under this Agreement. Except as otherwise expressly set forth in Section 6.1 or in connection with the exercise of remedies with respect to the Collateral, nothing herein shall limit the rights of the Second Lien Collateral Agent or the Second Lien Claimholders from seeking adequate protection with respect to their rights in the Collateral in any Insolvency or Liquidation Proceeding (including adequate protection in the form of a cash payment, periodic cash payments or otherwise).

6.4 No Waiver. Subject to Sections 3.1(a) and (d), nothing contained herein shall prohibit or in any way limit the First Lien Collateral Agent or any First Lien Claimholder from objecting in any Insolvency or Liquidation Proceeding or otherwise to any action taken by the Second Lien Collateral Agent or any of the Second Lien Claimholders, including the seeking by the Second Lien Collateral Agent or any Second Lien Claimholders of adequate protection or the asserting by the Second Lien Collateral Agent or any Second Lien Claimholders of any of its rights and remedies under the Second Lien Loan Documents or otherwise.

6.5 Avoidance Issues. If any First Lien Claimholder is required in any Insolvency or Liquidation Proceeding or otherwise to turn over or otherwise pay to the estate of the Company or any other Grantor or creditors, a trustee in bankruptcy, receiver, receiver and manager or similar Person appointed in respect of the Company or any other Grantor any amount paid in respect of First Lien Obligations (a "Recovery"), then such First Lien Claimholders shall be entitled to a reinstatement of First Lien Obligations with respect to all such recovered amounts. If this Agreement shall have been terminated prior to such Recovery, this Agreement shall be reinstated in full force and effect, and such prior termination shall not diminish, release, discharge, impair or otherwise affect the obligations of the parties hereto from such date of reinstatement.

6.6 Reorganization Securities. If, in any Insolvency or Liquidation Proceeding, debt obligations of a Loan Party secured by Liens upon any property of the reorganized Loan Party are distributed pursuant to a plan of reorganization or similar dispositive restructuring plan, both on account of First Lien Obligations and on account of Second Lien Obligations, then, to the extent the debt obligations distributed on account of the First Lien Obligations and on account of the Second Lien Obligations are secured by Liens upon the same property, the provisions of this Agreement will survive the distribution of such debt obligations pursuant to such plan and will apply with like effect to the Liens securing such debt obligations.

6.7 Post-Petition Interest. (a) Neither the Second Lien Collateral Agent nor any Second Lien Claimholder shall oppose or seek to challenge any claim by the First Lien Collateral Agent or any First Lien Claimholder for allowance in any Insolvency or Liquidation Proceeding of First Lien Obligations consisting of post-petition interest, fees or expenses to the extent of the value of any First Lien Claimholder's Lien, without regard to the existence of the Lien of the Second Lien Collateral Agent on behalf of the Second Lien Claimholders on the Collateral.

(b) Neither the First Lien Collateral Agent nor any other First Lien Claimholder shall oppose or seek to challenge any claim by the Second Lien Collateral Agent or any Second Lien Claimholder for allowance in any Insolvency or Liquidation Proceeding of Second Lien Obligations consisting of post-petition interest, fees or expenses to the extent of the value of the Lien of the Second Lien Collateral Agent on behalf of the Second Lien Claimholders on the Collateral (after taking into account the First Lien Collateral).

6.8 Waiver. The Second Lien Collateral Agent, for itself and on behalf of the Second Lien Claimholders, waives any claim it may hereafter have against any First Lien Claimholder arising out of the election of any First Lien Claimholder of the application of Section 1111(b)(2) of the Bankruptcy Code, and/or out of any cash collateral or financing arrangement or out of any grant of a security interest in connection with the Collateral in any Insolvency or Liquidation Proceeding.

6.9 Separate Grants of Security and Classification Matters. The Second Lien Collateral Agent, for itself and on behalf of the Second Lien Claimholders, and the First Lien Collateral Agent for itself and on behalf of the First Lien Claimholders, acknowledges and agrees that:

(a) With respect to any Insolvency or Liquidation Proceeding under the Bankruptcy Code, (i) the Second Lien Claimholders' claims against the Loan Parties in respect

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of the Collateral constitute junior claims separate and apart (and of a different class) from the senior claims of the First Lien Claimholders against the Loan Parties in respect of the Collateral, (ii) the First Lien Obligations include all interest that accrues after the commencement of any Insolvency or Liquidation Proceeding of any Loan Party at the rate provided for in the applicable First Lien Loan Documents governing the same, whether or not a claim for post-petition interest is allowed or allowable in any such Insolvency or Liquidation Proceeding and (iii) this Agreement constitutes a "subordination agreement" under Section 510 of the Bankruptcy Code.

To further effectuate the intent of the parties as provided in the immediately preceding sentence, if it is held that the claims of the First Lien Claimholders and the Second Lien Claimholders in respect of the Collateral constitute only one secured claim (rather than separate classes of senior and junior secured claims), then each of the parties hereto hereby acknowledges and agrees that, subject to Sections 2.1 and 4.1, all distributions shall be made as if there were separate classes of senior and junior secured claims against the Grantors in respect of the Collateral with the effect being that, to the extent that the aggregate value of the Collateral is sufficient (for this purpose ignoring all claims held by the Second Lien Claimholders), the First Lien Claimholders shall be entitled to receive, in addition to amounts otherwise distributed to them in respect of principal, pre-petition interest and other claims, all amounts owing in respect of post-petition interest, including any additional interest payable pursuant to the First Lien Credit Agreement, arising from or related to a default, which is disallowed as a claim in any Insolvency or Liquidation Proceeding before any distribution is made in respect of the claims held by the Second Lien Claimholders with respect to the Collateral, with the Second Lien Collateral Agent, for itself and on behalf of the Second Lien Claimholders, hereby acknowledging and agreeing to turn over to the First Lien Collateral Agent, for itself and on behalf of the First Lien Claimholders, amounts otherwise received or receivable by them to the extent necessary to effectuate the intent of this sentence (with respect to the payment of post-petition interest), even if such turnover has the effect of reducing the claim or recovery of the Second Lien Claimholders).

(b) Notwithstanding clause (a) above, with respect to any Insolvency and Liquidation Proceeding under the CCAA, BIA, WURA or any other similar Canadian Bankruptcy Law, whether ancillary or plenary, the claims of the First Lien Claimholders and the Second Lien Claimholders shall not be classified in different classes of senior and junior secured claims and shall be classified in the same class of senior secured claims. Neither the First Lien Collateral Agent nor the Second Lien Collateral Agent shall bring, commence or file any action, pleading, application, motion or other process to challenge the classification described in the immediately preceding sentence. The Second Lien Collateral Agent, for and on behalf of the Second Lien Claimholders, shall direct any Second Lien Claimholder, trustee, receiver or similar person to pay and distribute over any distributions, payments, Collateral or proceeds thereof received by any of them in respect of the claims of the Second Lien Claimholders to the First Lien Collateral Agent until the Discharge of First Lien Obligations.

To further effectuate the intent of the parties as provided in the immediately preceding paragraph, to the extent that any Insolvency or Liquidation Proceeding involving the Company or any other Grantor in Canada, whether ancillary or plenary, until the Discharge of First Lien Obligations has occurred, the Second Lien Collateral Agent, for and on behalf of the Second Lien Claimholders, agrees that it will only vote any of the claims of the Second Lien Claimholders against the Company or any other Grantor in favour of a plan of compromise, arrangement and/or reorganization (x) that provides for the Discharge of First Lien Obligations

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or (y) with respect to which the Second Lien Collateral Agent has received written notice from the First Lien Collateral Agent acknowledging the First Lien Collateral Agent's support of such plan.

6.10 Proofs of Claim. Subject to the limitations set forth in this Agreement, the First Lien Collateral Agent may file proofs of claim and other pleadings and motions with respect to any First Lien Obligations, any Second Lien Obligations or the Collateral in any Insolvency or Liquidation Proceeding. If a proper proof of claim has not been filed in the form required in such Insolvency or Liquidation Proceeding at least ten (10) days prior to the expiration of the time for filing thereof, the First Lien Collateral Agent shall have the right (but not the duty) to file an appropriate claim for and on behalf of the Second Lien Claimholders with respect to any of the Second Lien Obligations or any of the Collateral. In furtherance of the foregoing, the Second Lien Collateral Agent hereby appoints the First Lien Collateral Agent as its attorney-in-fact, with full authority in the place and stead of the Second Lien Collateral Agent and full power of substitution and in the name of the Second Lien Claimholders or otherwise, to execute and deliver any document or instrument that the First Lien Collateral Agent is required or permitted to deliver pursuant to this Section 6.10, such appointment being coupled with an interest and irrevocable.

6.11 Asset Dispositions in an Insolvency Proceeding. Neither the Second Lien Collateral Agent nor any other Second Lien Claimholder shall, in an Insolvency or Liquidation Proceeding or in connection with the exercise of the First Lien Collateral Agent's remedies in respect of the Collateral provided for in Section 3.1 (subject to the terms and conditions of Section 5.1(b)), oppose any sale or disposition of any Collateral of any Loan Party that is supported by the First Lien Claimholders, and the Second Lien Collateral Agent and each other Second Lien Claimholder will be deemed to have consented under Section 363 of the Bankruptcy Code (or any similar provisions of any other Bankruptcy Law or any order of court of competent jurisdiction) to any sale supported by the First Lien Claimholders and to have released their Liens on such assets (but not the proceeds of such sale).

6.12 Other Matters. To the extent that the Second Lien Collateral Agent or any Second Lien Claimholder has or acquires rights under Section 363 or Section 364 of the Bankruptcy Code or under any other similar provision under any Bankruptcy Law with respect to any of the Collateral, the Second Lien Collateral Agent agrees, on behalf of itself and the other Second Lien Claimholders, not to assert any of such rights without the prior written consent of the First Lien Collateral Agent; provided that if requested by the First Lien Collateral Agent, the Second Lien Collateral Agent shall timely exercise such rights in the manner requested by the First Lien Collateral Agent, including any rights to payments in respect of such rights.

SECTION 7. Reliance; Waivers; Etc.

7.1 Reliance. Other than any reliance on the terms of this Agreement, the First Lien Collateral Agent, on behalf of itself and the First Lien Claimholders under its First Lien Loan Documents, acknowledges that it and such First Lien Claimholders have, independently and without reliance on the Second Lien Collateral Agent or any Second Lien Claimholders, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into such First Lien Loan Documents and be bound by the terms of this Agreement and they will continue to make their own credit decision in taking or not taking any action under the First Lien Loan Documents or this Agreement. The Second Lien

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Collateral Agent, on behalf of itself and the Second Lien Claimholders, acknowledges that it and the Second Lien Claimholders have, independently and without reliance on the First Lien Collateral Agent or any First Lien Claimholder, and based on documents and information deemed by them appropriate, made their own credit analysis and decision to enter into each of the Second Lien Loan Documents and be bound by the terms of this Agreement and they will continue to make their own credit decision in taking or not taking any action under the Second Lien Loan Documents or this Agreement.

7.2 No Warranties or Liability. The First Lien Collateral Agent, on behalf of itself and the First Lien Claimholders under the First Lien Loan Documents, acknowledges and agrees that each of the Second Lien Collateral Agent and the Second Lien Claimholders have made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any of the Second Lien Loan Documents, the ownership of any Collateral or the perfection or priority of any Liens thereon. Except as otherwise provided herein, the Second Lien Claimholders will be entitled to manage and supervise their respective loans and extensions of credit under the Second Lien Loan Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate. Except as otherwise provided herein, the Second Lien Collateral Agent, on behalf of itself and the Second Lien Obligations, acknowledges and agrees that the First Lien Collateral Agent and the First Lien Claimholders have made no express or implied representation or warranty, including with respect to the execution, validity, legality, completeness, collectibility or enforceability of any of the First Lien Loan Documents, the ownership of any Collateral or the perfection or priority of any Liens thereon. Except as otherwise provided herein, the First Lien Claimholders will be entitled to manage and supervise their respective loans and extensions of credit under their respective First Lien Loan Documents in accordance with law and as they may otherwise, in their sole discretion, deem appropriate. The Second Lien Collateral Agent and the Second Lien Claimholders shall have no duty to the First Lien Collateral Agent or any of the First Lien Claimholders, and the First Lien Collateral Agent and the First Lien Claimholders shall have no duty to the Second Lien Collateral Agent or any of the Second Lien Claimholders, to act or refrain from acting in a manner which allows, or results in, the occurrence or continuance of an event of default or default under any agreements with the Company or any other Grantor (including the First Lien Loan Documents and the Second Lien Loan Documents), regardless of any knowledge thereof which they may have or be charged with.

7.3 No Waiver of Lien Priorities. (a) No right of the First Lien Claimholders, the First Lien Collateral Agent or any of them to enforce any provision of this Agreement or any First Lien Loan Document shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Company or any other Grantor or by any act or failure to act by any First Lien Claimholder or the First Lien Collateral Agent, or by any noncompliance by any Person with the terms, provisions and covenants of this Agreement, any of the First Lien Loan Documents or any of the Second Lien Loan Documents, regardless of any knowledge thereof which the First Lien Collateral Agent or the First Lien Claimholders, or any of them, may have or be otherwise charged with.

(b) Without in any way limiting the generality of the foregoing paragraph (but subject to the rights of the Company and the other Grantors under the First Lien Loan Documents and subject to the provisions of Section 5.3(a)), the First Lien Claimholders, the First Lien Collateral Agent and any of them may, at any time and from time to time in accordance

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with the First Lien Loan Documents and/or applicable law, without the consent of, or notice to, the Second Lien Collateral Agent or any Second Lien Claimholders, without incurring any liabilities to the Second Lien Collateral Agent or any Second Lien Claimholders and without impairing or releasing the Lien priorities and other benefits provided in this Agreement (even if any right of subrogation or other right or remedy of the Second Lien Collateral Agent or any Second Lien Claimholders is affected, impaired or extinguished thereby) do any one or more of the following:

(1) change the manner, place or terms of payment or change or extend the time of payment of, or amend, renew, exchange, increase or alter, the terms of any of the First Lien Obligations or any Lien on any First Lien Collateral or guarantee thereof or any liability of the Company or any other Grantor, or any liability incurred directly or indirectly in respect thereof (including any increase in or extension of the First Lien Obligations, without any restriction as to the tenor or terms of any such increase or extension) or otherwise amend, renew, exchange, extend, modify or supplement in any manner any Liens held by the First Lien Collateral Agent or any of the First Lien Claimholders, the First Lien Obligations or any of the First Lien Loan Documents;

(2) sell, exchange, release, surrender, realize upon, enforce or otherwise deal with in any manner and in any order any part of the First Lien Collateral or any liability of the Company or any other Grantor to the First Lien Claimholders or the First Lien Collateral Agent, or any liability incurred directly or indirectly in respect thereof;

(3) settle or compromise any First Lien Obligation or any other liability of the Company or any other Grantor or any security therefor or any liability incurred directly or indirectly in respect thereof and apply any sums by whomsoever paid and however realized to any liability (including the First Lien Obligations) in any manner or order; and

(4) exercise or delay in or refrain from exercising any right or remedy against the Company or any security or any other Grantor or any other Person, elect any remedy and otherwise deal freely with the Company, any other Grantor or any First Lien Collateral and any security and any guarantor or any liability of the Company or any other Grantor to the First Lien Claimholders or any liability incurred directly or indirectly in respect thereof.

(c) Except as otherwise provided herein, the Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, also agrees that the First Lien Claimholders and the First Lien Collateral Agent shall have no liability to the Second Lien Collateral Agent or any Second Lien Claimholders, and the Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, hereby waives any claim against any First Lien Claimholder or the First Lien Collateral Agent, arising out of any and all actions which the First Lien Claimholders or the First Lien Collateral Agent may take or permit or omit to take with respect to:

- (1) the First Lien Loan Documents (other than this Agreement);
- (2) the collection of the First Lien Obligations; or

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(3) the foreclosure upon, or sale, liquidation or other disposition of, any First Lien Collateral.

The Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, agrees that the First Lien Claimholders and the First Lien Collateral Agent have no duty to them in respect of the maintenance or preservation of the First Lien Collateral, the First Lien Obligations or otherwise.

(d) Until the Discharge of First Lien Obligations, the Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, agrees not to assert and hereby waives, to the fullest extent permitted by law, any right to demand, request, plead or otherwise assert or otherwise claim the benefit of, any marshalling, appraisal, valuation or other similar right that may otherwise be available under applicable law with respect to the Collateral or any other similar rights a junior secured creditor may have under applicable law.

7.4 Obligations Unconditional. All rights, interests, agreements and obligations of the First Lien Collateral Agent and the First Lien Claimholders and the Second Lien Collateral Agent and the Second Lien Claimholders, respectively, hereunder shall remain in full force and effect irrespective of:

(a) any lack of validity or enforceability of any First Lien Loan Documents or any Second Lien Loan Documents;

(b) except as otherwise expressly set forth in this Agreement, any change in the time, manner or place of payment of, or in any other terms of, all or any of the First Lien Obligations or Second Lien Obligations, or any amendment or waiver or other modification, including any increase in the amount thereof, whether by course of conduct or otherwise, of the terms of any First Lien Loan Document or any Second Lien Loan Document;

(c) except as otherwise expressly set forth in this Agreement, any exchange of any security interest in any Collateral or any other collateral, or any amendment, waiver or other modification, whether in writing or by course of conduct or otherwise, of all or any of the First Lien Obligations or Second Lien Obligations or any guarantee thereof;

(d) the commencement of any Insolvency or Liquidation Proceeding in respect of the Company or any other Grantor; or

(e) any other circumstances which otherwise might constitute a defense available to, or a discharge of, the Company or any other Grantor in respect of the First Lien Collateral Agent, the First Lien Obligations, any First Lien Claimholder, the Second Lien Collateral Agent, the Second Lien Obligations or any Second Lien Claimholder in respect of this Agreement.

7.5 Certain Notices.

(a) Promptly upon (or as soon as practicable following) the satisfaction of the conditions set forth in the definition of Discharge of First Lien Obligations, the First Lien Collateral Agent shall deliver written notice confirming the same to the Second Lien Collateral Agent; provided that the failure to give any such notice shall not result in any liability of the First

Nelson - Intercreditor

Lien Collateral Agent or the First Lien Claimholders hereunder or in the modification, alteration, impairment, or waiver of the rights of any party hereunder.

(b) Promptly upon the commencement by the First Lien Collateral Agent of any enforcement action or the exercise of any remedy with respect to any Collateral (including by way of a public or private sale of Collateral), the First Lien Collateral Agent shall notify the Second Lien Collateral Agent of such action; provided that the failure to give any such notice shall not result in any liability of the First Lien Collateral Agent or the First Lien Claimholders hereunder or in the modification, alteration, impairment, or waiver of the rights of any party hereunder.

SECTION 8. Miscellaneous.

8.1 Conflicts. In the event of any conflict between the provisions of this Agreement and the provisions of the First Lien Loan Documents or the Second Lien Loan Documents, the provisions of this Agreement shall govern and control.

8.2 Effectiveness; Continuing Nature of this Agreement; Severability. This Agreement shall become effective when executed and delivered by the parties hereto. This is a continuing agreement of lien subordination, and the First Lien Claimholders may continue, at any time and without notice to the Second Lien Collateral Agent or any Second Lien Claimholder subject to the Second Lien Loan Documents, to extend credit and other financial accommodations and lend monies to or for the benefit of the Company or any Grantor constituting First Lien Obligations in reliance hereof. The Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, hereby waives any right it may have under applicable law to revoke this Agreement or any of the provisions of this Agreement. The terms of this Agreement shall survive, and shall continue in full force and effect, in any Insolvency or Liquidation Proceeding. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall not invalidate the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. All references to the Company or any other Grantor shall include the Company or such Grantor as debtor and debtor in possession and any receiver, liquidator, sequestrator, trustee, custodian, administrator or other officer in any applicable jurisdiction having similar powers over the Company or any other Grantor (as the case may be) in any Insolvency or Liquidation Proceeding. This Agreement shall terminate and be of no further force and effect:

(a) with respect to the First Lien Collateral Agent, the First Lien Claimholders and the First Lien Obligations, the date of Discharge of First Lien Obligations, subject to the rights of the First Lien Claimholders under Section 6.5; and

(b) with respect to the Second Lien Collateral Agent, the Second Lien Claimholders and the Second Lien Obligations, upon the later of (1) the date upon which the obligations under the Second Lien Credit Agreement terminate if there are no other Second Lien Obligations outstanding on such date and (2) if there are other Second Lien Obligations outstanding on such date, the date upon which such Second Lien Obligations terminate.

8.3 Amendments; Waivers. No amendment, modification or waiver of any of the provisions of this Agreement by the Second Lien Collateral Agent or the First Lien Collateral

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Agent shall be deemed to be made unless the same shall be in writing signed on behalf of each party hereto or its authorized agent and each waiver, if any, shall be a waiver only with respect to the specific instance involved and shall in no way impair the rights of the parties making such waiver or the obligations of the other parties to such party in any other respect or at any other time. Notwithstanding the foregoing, the Company shall not have any right to consent to or approve any amendment, modification or waiver of any provision of this Agreement except to the extent its rights are directly affected.

8.4 Information Concerning Financial Condition of the Company and its Subsidiaries. The First Lien Collateral Agent and the First Lien Claimholders, on the one hand, and the Second Lien Claimholders and the Second Lien Collateral Agent, on the other hand, shall each be responsible for keeping themselves informed of (a) the financial condition of Holdings and its Subsidiaries and all endorsers and/or guarantors of the First Lien Obligations or the Second Lien Obligations and (b) all other circumstances bearing upon the risk of nonpayment of the First Lien Obligations or the Second Lien Obligations. The First Lien Collateral Agent and the First Lien Claimholders shall have no duty to advise the Second Lien Collateral Agent or any Second Lien Claimholder of information known to it or them regarding such condition or any such circumstances or otherwise. In the event the First Lien Collateral Agent or any of the First Lien Claimholders, in its or their sole discretion, undertakes at any time or from time to time to provide any such information to the Second Lien Collateral Agent or any Second Lien Claimholder, it or they shall be under no obligation:

(a) to make, and the First Lien Collateral Agent and the First Lien Claimholders shall not make, any express or implied representation or warranty, including with respect to the accuracy, completeness, truthfulness or validity of any such information so provided;

(b) to provide any additional information or to provide any such information on any subsequent occasion;

(c) to undertake any investigation; or

(d) to disclose any information, which pursuant to accepted or reasonable commercial finance practices, such party wishes to maintain confidential or is otherwise required to maintain confidential.

8.5 Subrogation. With respect to the value of any payments or distributions in cash, property or other assets that any of the Second Lien Claimholders or the Second Lien Collateral Agent pays over to the First Lien Collateral Agent or the First Lien Claimholders under the terms of this Agreement, the Second Lien Claimholders and the Second Lien Collateral Agent shall be subrogated to the rights of the First Lien Collateral Agent and the First Lien Claimholders; provided that, the Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, hereby agrees not to assert or enforce all such rights of subrogation it may acquire as a result of any payment hereunder until the Discharge of First Lien Obligations has occurred. The Company acknowledges and agrees that the value of any payments or distributions in cash, property or other assets received by the Second Lien Collateral Agent or the Second Lien Claimholders that are paid over to the First Lien Collateral Agent or the First Lien Claimholders pursuant to this Agreement shall not reduce any of the Second Lien Obligations.

8.6 Application of Payments. All payments received by the First Lien Collateral Agent or the First Lien Claimholders may be applied, reversed and reapplied, in whole or in part, to such part of the First Lien Obligations provided for in the First Lien Loan Documents. The Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders, assents to any extension or postponement of the time of payment, subject to Section 5.3(a)(3), of the First Lien Obligations or any part thereof and to any other indulgence with respect thereto, to any substitution, exchange or release of any security which may at any time secure any part of the First Lien Obligations and to the addition or release of any other Person primarily or secondarily liable therefor.

8.7 SUBMISSION TO JURISDICTION; WAIVERS. (a) ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY PARTY ARISING OUT OF OR RELATING HERETO MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE, COUNTY AND CITY OF NEW YORK. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH PARTY, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY:

(1) ACCEPTS GENERALLY AND UNCONDITIONALLY THE NONEXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS;

(2) WAIVES ANY DEFENSE OF FORUM NON CONVENIENS;

(3) AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE APPLICABLE PARTY AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH SECTION 8.8; AND

(4) AGREES THAT SERVICE AS PROVIDED IN CLAUSE (3) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER THE APPLICABLE PARTY IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT.

(b) EACH OF THE PARTIES HERETO HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING HEREUNDER. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY AND ALL DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER HEREOF, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP THAT EACH HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN ITS RELATED FUTURE DEALINGS. EACH PARTY HERETO FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL. THIS

WAIVER IS IRREVOCABLE; MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 8.7(b) AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS HERETO. IN THE EVENT OF LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(c) EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED ON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER FIRST LIEN LOAN DOCUMENT OR SECOND LIEN LOAN DOCUMENT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, VERBAL OR WRITTEN STATEMENT OR ACTION OF ANY PARTY HERETO.

8.8 Notices. All notices to the Second Lien Claimholders and the First Lien Claimholders permitted or required under this Agreement shall also be sent to the Second Lien Collateral Agent and the First Lien Collateral Agent, respectively. Unless otherwise specifically provided herein, any notice hereunder shall be in writing and may be personally served, telexed or sent by telefacsimile or mail or courier service and shall be deemed to have been given when delivered in person or by courier service and signed for against receipt thereof; upon receipt of telefacsimile or telex, or three Business Days after depositing it in the mail with postage prepaid and properly addressed. For the purposes hereof, the addresses of the parties hereto shall be as set forth on Annex I hereto, or, as to each party, at such other address as may be designated by such party in a written notice to all of the other parties.

8.9 Further Assurances. The First Lien Collateral Agent, on behalf of itself and the First Lien Claimholders under the First Lien Loan Documents, and the Second Lien Collateral Agent, on behalf of itself and the Second Lien Claimholders under the Second Lien Loan Documents, and the Company, agree that each of them shall take such further action and shall execute and deliver such additional documents and instruments (in recordable form, if requested) as the First Lien Collateral Agent or the Second Lien Collateral Agent may reasonably request to effectuate the terms of and the Lien priorities contemplated by this Agreement.

8.10 APPLICABLE LAW. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICT OF LAWS PRINCIPLES THEREOF.

8.11 Binding on Successors and Assigns. This Agreement shall be binding upon the First Lien Collateral Agent, the First Lien Claimholders, the Second Lien Collateral Agent, the Second Lien Claimholders and their respective successors and assigns.

8.12 Specific Performance. Each of the First Lien Collateral Agent and the Second Lien Collateral Agent may demand specific performance of this Agreement. The First Lien Collateral Agent, on behalf of itself and the First Lien Claimholders under the First Lien Loan Documents, and the Second Lien Collateral Agent, on behalf of itself and the Second Lien

Claimholders, hereby irrevocably waive any defense based on the adequacy of a remedy at law and any other defense which might be asserted to bar the remedy of specific performance in any action which may be brought by the First Lien Collateral Agent or the First Lien Claimholders or the Second Lien Collateral Agent or the Second Lien Claimholders, as the case may be.

8.13 Headings. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

8.14 Counterparts. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement or any document or instrument delivered in connection herewith by telecopy shall be effective as delivery of a manually executed counterpart of this Agreement or such other document or instrument, as applicable.

8.15 Authorization. By its signature, each Person executing this Agreement on behalf of a party hereto represents and warrants to the other parties hereto that it is duly authorized to execute this Agreement.

8.16 No Third Party Beneficiaries. This Agreement and the rights and benefits hereof shall inure to the benefit of each of the parties hereto and its respective successors and assigns and shall inure to the benefit of each of the First Lien Claimholders and the Second Lien Claimholders. The First Lien Claimholders and the Second Lien Claimholders are express and intended third party beneficiaries of this Agreement and entitled to assert and pursue their respective rights hereunder as if an original party thereto. Nothing in this Agreement shall impair, as between the Company and the other Grantors and the First Lien Collateral Agent and the First Lien Claimholders, or as between the Company and the other Grantors and the Second Lien Collateral Agent and the Second Lien Claimholders, the obligations of the Company and the other Grantors to pay principal, interest, fees and other amounts as provided in the First Lien Loan Documents and the Second Lien Loan Documents, respectively.

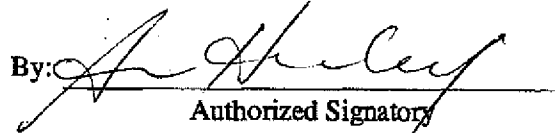
8.17 Provisions Solely to Define Relative Rights. The provisions of this Agreement are and are intended solely for the purpose of defining the relative rights of the First Lien Collateral Agent and the First Lien Claimholders on the one hand and the Second Lien Collateral Agent and the Second Lien Claimholders on the other hand. None of the Company, any other Grantor or any other creditor thereof shall have any rights hereunder and neither the Company nor any Grantor may rely on the terms hereof. Nothing in this Agreement is intended to or shall impair the obligations of the Company or any other Grantor, which are absolute and unconditional, to pay the First Lien Obligations and the Second Lien Obligations as and when the same shall become due and payable in accordance with their terms.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have executed this Intercreditor Agreement as of the date first written above.

First Lien Collateral Agent

**ROYAL BANK OF CANADA, as First Lien
Collateral Agent**

By: 
Authorized Signatory
Ann Hurley
Manager, Agency

Second Lien Collateral Agent**ROYAL BANK OF CANADA, as Second
Lien Collateral Agent**By: 

Name:

Ann Hurley

Title:

Manager, Agency

Acknowledged and Agreed to by:

NELSON EDUCATION LTD.

By: 
Authorized Signing Officer

NELSON EDUCATION HOLDINGS LTD.

By: 
Authorized Signing Officer

Annex I

Notices

First Lien Collateral Agent

Royal Bank of Canada

**Second Lien Collateral Agent**

Royal Bank of Canada

**The Company**


TAB G

THIS IS EXHIBIT "G" REFERRED TO IN THE

AFFIDAVIT OF GREG NORDAL

SWORN BEFORE ME

ON THIS 11TH DAY OF MAY, 2015

A handwritten signature in black ink, appearing to be "G. N.", is written over a horizontal line.

A COMMISSIONER FOR TAKING AFFIDAVITS

SUPPORT AGREEMENT

This support agreement (the "**Support Agreement**"), dated as of September 10, 2014, sets out the agreement among: Nelson Education Ltd. (the "**Borrower**"), Nelson Education Holdings Ltd. ("**Holdings**", and together with the Borrower, the "**Companies**"), Wilmington Trust, National Association, as Administrative Agent and Collateral Agent (the "**First Lien Agent**"), and each of the other signatories hereto (together with the Joining Consenting First Lien Lenders (as defined below), collectively, the "**Consenting First Lien Lenders**", and each individually a "**Consenting First Lien Lender**"), each of the Consenting First Lien Lenders being a holder of, and/or investment advisor or manager with investment discretion with respect to, holdings of credit issued by the Borrower (the "**Loans**") pursuant to that certain First Lien Credit Agreement among the Borrower, Holdings, Royal Bank of Canada, as Administrative Agent, Collateral Agent and Swing Line Lender, as succeeded by the First Lien Agent and certain other lenders party thereto dated as of July 5, 2007 (the "**First Lien Credit Agreement**"), regarding a restructuring and recapitalization of the Companies in accordance with the term sheet (the "**Term Sheet**") attached hereto as Schedule A (the "**Restructuring**").

Holders of the Loans are herein referred to as "**First Lien Lenders**". The Consenting First Lien Lenders, the First Lien Agent and the Companies are collectively referred to as the "**Parties**".

1. **Restructuring**

The Term Sheet is incorporated herein and made a part of this Support Agreement. In the case of a conflict between the provisions contained in the text of this Support Agreement and the Term Sheet, the terms of this Support Agreement shall govern.

2. **Representations and Warranties of Consenting First Lien Lenders**

Each Consenting First Lien Lender, severally and not jointly, hereby represents and warrants to each of the other Parties (and acknowledges that each of the other Parties is relying upon such representations and warranties) that:

- (a) it (or clients thereof for which it has discretionary authority to manage or administer funds) is the legal or beneficial holder of, or exercises control and direction over, (i) the Loans in the principal amount set forth on such Consenting First Lien Lender's signature page to this Support Agreement or its Joinder Agreement (as defined below), as the case may be (the "**Relevant Loans**", the Relevant Loans, together with the aggregate amount owing in respect of the Relevant Loans, including accrued and unpaid interest and any other amount that such Consenting First Lien Lender is entitled to claim in respect of the Relevant Loans pursuant to the First Lien Credit Agreement, its "**Debt**"), and (ii) credit (the "**Second Lien Loans**") issued by the Borrower pursuant that certain Second Lien Credit Agreement among the Borrower, Holdings, Royal Bank of Canada, as Administrative Agent and Collateral Agent (the "**Second Lien Agent**") and certain other lenders party thereto dated as of July 5, 2007 (the "**Second Lien Credit Agreement**") in the principal amount set forth on such Consenting First

Lien Lender's signature page to this Support Agreement or its Joinder Agreement, as the case may be;

- (b) as of the date hereof, the principal amount of Relevant Loans and Second Lien Loans (if any) set forth on such Consenting First Lien Lender's signature page to this Support Agreement or its Joinder Agreement, as the case may be, constitute all of the Loans and Second Lien Loans (if any) that are legally or beneficially owned by it (or over which it exercises control or discretion on behalf of clients for which it has discretionary authority to manage or administer funds);
- (c) it has the authority, subject to the terms of the First Lien Credit Agreement, to direct the First Lien Agent with respect to its Debt;
- (d) it is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Support Agreement; it has conducted its own analysis and made its own decision to enter into this Support Agreement and has obtained such independent advice in this regard as it deemed appropriate (it being recognized that Willkie Farr & Gallagher LLP, Bennett Jones LLP and AlixPartners (collectively, the "**Advisors**") are not the advisors to any individual holder of the Loans, including any Consenting First Lien Lender, on an individual basis), and it has not relied in such analysis or decision on any person other than its own independent advisors;
- (e) this Support Agreement has been duly executed and delivered by it, and, assuming the due authorization, execution and delivery by all Parties, this Support Agreement constitutes the legal, valid and binding obligation of such Consenting First Lien Lender, enforceable in accordance with its terms, subject to laws of general application and bankruptcy, insolvency and other similar laws affecting creditors' rights generally and general principles of equity;
- (f) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization and has all necessary power and authority to execute and deliver this Support Agreement resulting from its acceptance hereof and to perform its obligations hereunder, including the power and authority to bind the beneficial owner(s) of the Relevant Loans and the Second Lien Loans (if applicable) to the terms of this Support Agreement;
- (g) the execution and delivery of this Support Agreement by it and the completion by it of the transactions contemplated herein do not and will not, to the knowledge of the officers, partners, account managers and employees of such Consenting First Lien Lender who have been working on the Restructuring (the "**Relevant Lender Personnel**"), violate or conflict with any judgment, order, notice, decree, statute, law, ordinance, rule or regulation applicable to such Consenting First Lien Lender or any of its properties or assets, or result (with or without notice or the passage of time) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under, its certificate of incorporation, articles, bylaws or other charter documents;

- (h) except as contemplated by this Support Agreement, it has not deposited any of its Relevant Loans or Debt or Second Lien Loan (if applicable) into a voting trust, or granted (or permitted to be granted) any proxies or powers of attorney or attorney in fact, or entered into a voting agreement, understanding or arrangement, with respect to the voting of its Relevant Loans or Debt or Second Lien Loans (if applicable) where such trust, grant, agreement, understanding or arrangement would in any manner restrict the ability of the Consenting First Lien Lender to comply with its obligations under this Support Agreement, including the obligations in Sections 4(c) and 4(d); and
- (i) to the knowledge of the Relevant Lender Personnel, there is no proceeding, claim or investigation pending before any governmental entity, or threatened against such Consenting First Lien Lender or any of its properties that, individually or in the aggregate, could reasonably be expected to have an adverse effect on such Consenting First Lien Lender's ability to execute and deliver this Support Agreement and to consummate the transactions contemplated by this Support Agreement.

3. The Companies' Representations and Warranties

Each of the Companies hereby represents and warrants to each of the Consenting First Lien Lenders (and the Companies acknowledge that the Consenting First Lien Lenders are relying upon such representations and warranties) that:

- (a) the Companies are indebted to the First Lien Agent and the First Lien Lenders in the principal amount of not less than US\$268,753,930, plus accrued but unpaid interest and all other amounts (including fees, costs and expenses) owing under the First Lien Credit Agreement and related security documents (the "**Security**"), (ii) the Security is fully valid and enforceable by the First Lien Agent against the Companies in accordance with the terms thereof, unaltered, and (iii) the Companies have no knowledge of any claim, demand, set-off, counterclaim or any similar right or claim against the First Lien Agent or the First Lien Lenders;
- (b) its board of directors has approved this Support Agreement and concluded that entering into this Support Agreement is in the best interests of the Company;
- (c) it is a sophisticated party with sufficient knowledge and experience to evaluate properly the terms and conditions of this Support Agreement; it has conducted its own analysis and made its own decision to enter into this Support Agreement and has obtained such independent advice in this regard as it deemed appropriate, and it has not relied in such analysis or decision on any person other than its own independent advisors;
- (d) this Support Agreement has been duly executed and delivered by it, and, assuming the due authorization, execution and delivery by all Parties, this Support Agreement constitutes its legal, valid and binding obligation, enforceable in accordance with its terms, subject to laws of general application and bankruptcy,

insolvency and other similar laws affecting creditors' rights generally and general principles of equity;

- (e) it is duly organized, validly existing and in good standing under the laws of the province of Ontario and has all necessary power and authority to execute and deliver this Support Agreement resulting from its acceptance hereof and, subject to (i) any approvals that may be required by the Ontario Superior Court of Justice (Commercial List) (the "**Court**"); and (ii) the satisfaction of any other statutory or regulatory preconditions to the consummation of the Restructuring, to consummate the transactions contemplated hereby;
- (f) subject to the satisfaction of the conditions precedent contained herein, the execution and delivery of this Support Agreement by it and the completion by it of the transactions contemplated herein do not and will not:
 - (i) violate or conflict with any judgment, order, notice, decree, statute, law, ordinance, rule or regulation applicable to it or any of its properties or assets; or
 - (ii) except as previously disclosed in the disclosure letter dated as of the date hereof (the "**Disclosure Letter**"), as at the date hereof, result (with or without notice or the passage of time) in a violation, conflict or breach of, or constitute a default under, or require any consent to be obtained under, or give rise to any third party right of termination, amendment, first refusal, cancellation or acceleration under, or result in any penalty or payment obligation or right of purchase or sale under, any provision of:
 - (A) its certificate of incorporation, articles, bylaws or other charter documents; or
 - (B) any agreement, arrangement or understanding to which either of the Companies is a party or by which either of the Companies or any of their properties or assets is bound or affected;
- (g) except as previously disclosed in the Disclosure Letter, as at the date hereof, to the knowledge of its officers and other employees who have been working directly on the Restructuring (the "**Relevant Company Personnel**"), there is no proceeding, claim or investigation pending before any court, regulatory body, tribunal, agency, governmental or legislative body, or threatened against it or any of its properties that, individually or in the aggregate, could reasonably be expected to have a material adverse effect on its ability to execute and deliver this Support Agreement;
- (h) all forward looking information and future oriented financial information and all other financial projections (collectively, the "**Projections**") that has been or will be provided or made available by it or any of its representatives to any Consenting First Lien Lender and/or the Advisors has been or will be, when furnished,

prepared in good faith and based upon assumptions that the Relevant Company Personnel believe to be reasonable;

- (i) except as previously disclosed in the Disclosure Letter, as at the date hereof, (i) the Advisors or the Initial Consenting First Lien Lenders (as defined below) have been provided with a true, accurate and complete copy of each contract, license, lease and agreement to which either of the Companies is a party or by which either of the Companies is bound that is material to the business or financial condition of the Companies (each, a "**Material Contract**"), (ii) the Companies are in compliance with the terms of each of their Material Contracts, (iii) the Relevant Company Personnel are not aware of any existing breach or other event that provides a counterparty to any Material Contract with the right (with or without notice) to terminate such Material Contract, and (iv) the Relevant Company Personnel are not aware of any other obligation, undertaking, arrangement, document, commitment, entitlement or engagement to which either of the Companies is a party or by which either of the Companies is bound that is material to the business or financial condition of the Companies;
- (j) except as previously disclosed in the Disclosure Letter, as at the date hereof, (i) neither of the Companies is party to or bound by any written employment, service or consulting agreement or other similar agreement that is material to the business or financial condition of the Companies, and (ii) the Relevant Company Personnel are not aware of any other arrangement, plan, obligation or understanding to which either of the Companies is a party or bound in respect of employment, service or consulting that is material to the business or financial condition of the Companies. The Initial Consenting First Lien Lenders or the Advisors have been provided with copies of all written agreements that the Relevant Company Personnel are aware of between either of the Companies and each director, officer, consultant and employee of the Companies that provides for severance or termination or other payments in connection with the termination of the employment or engagement of, or resignation of, any such person following a change of control of the applicable Company;
- (k) it has conducted its business in material compliance with all applicable laws and has not received any notice to the effect that, or has otherwise been advised that, it is not in material compliance with such laws;
- (l) except as previously disclosed in the Disclosure Letter, as at the date hereof, it has no liabilities or obligations of any nature (whether absolute, accrued, contingent or otherwise) other than in the ordinary course of business consistent with past practice which would not have a material adverse affect on the applicable company;
- (m) except as previously disclosed in the Disclosure Letter, as at the date hereof, it is not aware of any litigation or other claims commenced or threatened against it;

- (n) except as previously disclosed in the Disclosure Letter, as at the date hereof, since July 31, 2014, it has not undergone an adverse change that is material to its business or financial condition; and
- (o) to the knowledge of the Relevant Company Personnel, no representation or warranty of it contained in this Support Agreement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein not misleading. All responses by it to the inquiries of the Initial Consenting First Lien Lenders and the Advisors concerning it and its business during the due diligence investigation of the Initial Consenting First Lien Lenders and the Advisors have been made in good faith and to the knowledge of the Relevant Company Personnel. To the knowledge of the Relevant Company Personnel, all documents provided to the Initial Consenting First Lien Lenders and the Advisors are true, accurate and complete copies in all material respects of the documents they purport to be.

4. Consenting First Lien Lenders' Covenants, Agreements and Consents

In each case subject to applicable law and any order that may be granted by a court of competent jurisdiction:

- (a) Each Consenting First Lien Lender, severally, and not joint and severally, consents and agrees to the terms of this Support Agreement.
- (b) Each Consenting First Lien Lender agrees that between the date of delivery of this Support Agreement and the termination of this Support Agreement, it shall not, directly or indirectly:
 - (i) sell, assign, lend, pledge, hypothecate (except with respect to security generally applying to its investments which does not adversely affect such Consenting First Lien Lender's ability to perform its obligations under this Support Agreement) or otherwise transfer (a "**Transfer**") any of its Debt or Relevant Loans or Second Lien Loans (if applicable) or any rights or interests therein (or permit any of the foregoing with respect to any of its Relevant Loans or Debt or Second Lien Loans (if applicable)) or enter into any agreement, arrangement or understanding in connection therewith, except that the Consenting First Lien Lender may Transfer its Debt or Second Lien Loans (if applicable) (x) to the extent the Consenting First Lien Lender is managing the Debt or Second Lien Loans (if applicable) on behalf of a fund, to another fund managed by the same Consenting First Lien Lender (a "**Managed Fund**"), (y) to another Consenting First Lien Lender or a Managed Fund of another Consenting First Lien Lender, or (z) to any other transferee provided that such transferee agrees pursuant to a duly executed joinder agreement in the form attached as Schedule B (a "**Joinder Agreement**") prior to such Transfer to be bound by all of the terms of this Support Agreement as if such transferee had originally executed this Support Agreement (each such transferee, a "**Consenting**

Transferee"). Within five (5) business days of any Transfer, each of the transferor and the transferee shall provide the Companies and the Advisors with written notice of such Transfer (including the principal amount of the Loans or Second Lien Loans (if applicable) affected by such Transfer) and, if applicable, a copy of the Joinder Agreement executed by the Consenting Transferee. Any Transfer that does not comply with this paragraph shall be void *ab initio*. For greater certainty, if a Consenting First Lien Lender assigns all of its Debt or Relevant Loans and Second Lien Loans (if applicable) pursuant to this clause (b)(i), this Support Agreement shall continue to be binding upon such First Lien Lender with respect to any Debt or Loans and Second Lien Loans it subsequently acquires;

- (ii) except as contemplated by this Support Agreement, deposit any of its Relevant Loans or Debt or Second Lien Loans (if applicable) into a voting trust, or grant (or permit to be granted) any proxies or powers of attorney or attorney in fact, or enter into a voting agreement, understanding or arrangement, with respect to the voting of its Relevant Loans or Debt or Second Lien Loans (if applicable) if such trust, grant, agreement, understanding or arrangement would in any manner restrict the ability of the Consenting First Lien Lender to comply with its obligations under this Support Agreement, including the obligations in Sections 4(c) and 4(d); or
 - (iii) take any action inconsistent with this Support Agreement that would frustrate or hinder the consummation of the Restructuring.
- (c) If the Credit Bid (as defined in the Term Sheet) is to be pursued in accordance with the terms of the Term Sheet, each Consenting First Lien Lender shall, at the relevant time, execute a direction to the First Lien Agent to submit the Credit Bid (the "**Direction**"), such direction to be in the form and substance acceptable to the Majority Initial Consenting First Lien Lenders (as defined below) and the First Lien Agent.
- (d) Each Consenting First Lien Lender agrees that, until the termination of this Support Agreement, it shall, on and subject to the terms and conditions hereof:
- (i) not revoke the Direction;
 - (ii) support the approval of the Restructuring as promptly as practicable;
 - (iii) not propose, file, solicit, vote for or otherwise support any alternative offer, restructuring, liquidation, workout or plan of compromise or arrangement or reorganization of or for the Companies, including any proceeding under the *Companies' Creditors Arrangement Act* (the "CCAA") or otherwise, that is inconsistent with the Restructuring;
 - (iv) in the event the Restructuring is implemented by way of a court proceeding, support or instruct the Advisors to support all motions filed by

the Companies in any such court proceeding (the "**Restructuring Proceedings**") that are in furtherance of the Restructuring;

- (v) not accelerate or enforce or take any action or initiate any proceeding to accelerate or enforce the payment or repayment of any of its Debt (including for greater certainty any due and unpaid interest on its Relevant Loans) or Second Lien Loans (if applicable);
- (vi) forbear from exercising, or directing the First Lien Agent and the Second Lien Agent (if applicable) to exercise, any default-related rights, remedies, powers or privileges, or from instituting any enforcement actions or collection actions with respect to any obligations under the First Lien Credit Agreement or the Second Lien Credit Agreement (if applicable);
- (vii) not take, or omit to take, any action, directly or indirectly, that is materially inconsistent with, or is intended or is likely to interfere with the consummation of, the Restructuring; and
- (viii) execute any and all documents and perform any and all commercially reasonable acts required by this Support Agreement to satisfy all of its obligations hereunder including any consent, approval or waiver requested by the Companies in furtherance of the Restructuring, acting reasonably,

provided, however, that nothing contained herein shall limit the ability of a Consenting First Lien Lender to appear and be heard concerning any matter arising in the Restructuring Proceedings so long as such appearance is not inconsistent with the Consenting First Lien Lender's obligations hereunder.

- (e) Each Consenting First Lien Lender agrees, subject to section 12, to the existence and factual details of this Support Agreement being set out in any public disclosure made by the Companies, including press releases and Court materials, provided that such public disclosure is approved by the Advisors, acting reasonably.
- (f) Each Consenting First Lien Lender agrees that to the extent such Consenting First Lien Lender acquires additional Loans or Second Lien Loans, such Loans or Second Lien Loans shall be subject to this Support Agreement and, with respect to such additional Loans, shall become Relevant Loans for the purposes hereunder, and further agrees that it shall direct the First Lien Agent and Second Lien Agent (if applicable) with respect to any such additional Relevant Loans and Second Lien Loans (if applicable) in a manner consistent with this Support Agreement.
- (g) If a process to implement the Credit Bid is not agreed to by the Borrower and the Majority Initial Consenting First Lien Lenders by November 14, 2014, or such later date as may be agreed to by the Borrower and the Majority Initial Consenting First Lien Lenders, the Consenting First Lien Lenders shall, and do hereby, direct the Agent (without requirement for any further direction or action

on the part of the First Lien Lenders to the Agent) to issue a notice under Section 244 of the *Bankruptcy and Insolvency Act* (Canada) to the Borrower, unless otherwise directed by the Majority Initial Consenting First Lien Lenders.

- (h) Each Consenting First Lien Lender agrees that the covenants in this Section 4 apply to all claims against the Companies held by the First Lien Lenders under the First Lien Credit Agreement, the Second Lien Credit Agreement, or otherwise.

5. Companies' Covenants and Agreements

- (a) Each of the Companies consents and agrees to the terms of this Support Agreement, including, for greater certainty, the terms of the Term Sheet.
- (b) The Companies shall initiate the sale and investment solicitation process (the "SISP") in form and substance attached as Schedule "A" to the Term Sheet as soon as practicable and in any event no later than September 23, 2014.
- (c) The Companies shall engage Alvarez & Marsal Canada Securities ULC ("A&M") as an investment banker no later than September 11, 2014 to implement the SISP and shall continue to employ A&M as the investment banker during the term of the SISP. The terms of engagement of A&M as the investment banker shall be acceptable to the Initial Consenting First Lien Lenders.
- (d) The Companies shall comply with all terms and provisions of the Term Sheet, including the timeline set out therein.
- (e) The Companies agree to use their reasonable best efforts (including taking all reasonable actions necessary to obtain any regulatory approvals for the Restructuring) to achieve the timeline set out in the Term Sheet (which timeline may be extended at any time with the approval of the Companies and the Majority Initial Consenting First Lien Lenders).
- (f) In the event the Restructuring is implemented by way of a court proceeding, the Companies shall provide draft copies of all motions or applications and other documents the Companies intend to file with the Court to Bennett Jones LLP and Willkie Farr & Gallagher LLP at least three (3) business days prior to the date when the Companies intend to file such document (or as soon as possible where it is not reasonably practicable to provide copies three (3) business days in advance), all such filings to be filed in form and substance acceptable to the Majority Initial Consenting First Lien Lenders, acting reasonably (except in the case of the Court order vesting the assets of the Companies in Newco (as defined in the Term Sheet) which shall be in form and substance acceptable to the Majority Initial Consenting First Lien Lenders in their sole discretion).
- (g) The Companies hereby agree to promptly notify the Consenting First Lien Lenders if, at any time before the termination of this Support Agreement, the Companies become aware that any information disclosure for the First Lien Lenders, an application for a regulatory approval or any other order, registration,

consent, filing, ruling, exemption or approval under applicable laws contains a statement which is inaccurate or incomplete in any material respect or of information that otherwise requires an amendment or supplement to such information disclosure or such application, and the Companies shall co-operate in the preparation of such amendment or supplement as required.

- (h) The Companies hereby agree, whether or not the Recapitalization Transaction is consummated, to (A) indemnify and hold harmless the First Lien Agent, each Consenting First Lien Lender and their respective subsidiaries and affiliates, and their respective funds, shareholders, officers, directors, employees, partners, advisors, legal counsel and agents (each an "**Indemnified Party**") from and against any and all liabilities or claims by persons who are not party to this Support Agreement (other than liabilities or claims attributable to any of such persons' gross negligence, fraud or willful misconduct as determined by the final, non-appealable judgment of a court of competent jurisdiction) arising on or prior to the earlier of (i) the Implementation Date and (ii) the date on which this Support Agreement is terminated provided and to the extent that such claims arise directly or indirectly in connection with this Support Agreement, the Recapitalization Transaction or any proceedings commenced with respect to the Recapitalization Transaction or any related transaction, and any other claim, litigation, investigation, actions or matters related directly or indirectly to this Support Agreement, the Recapitalization Transaction or any proceedings commenced with respect to the Recapitalization Transaction or any related transaction, and (B) reimburse each Indemnified Party promptly upon demand for all reasonable legal and other expenses reasonably incurred by it in connection with investigating, preparing to defend or defending, or providing evidence in or preparing to serve or serving as a witness with respect to, any lawsuit, investigation, claim or other proceeding relating to any of the foregoing (including, without limitation, in connection with the enforcement of the indemnification obligations set forth herein).
- (i) With respect to Material Contracts, the Companies shall not, unless they have provided five (5) business days' notice of same to the Advisors and have not received an objection to same, materially amend, materially modify, replace, terminate, repudiate, disclaim, waive any material right under or take any other material steps or actions (other than as expressly required by such Material Contracts or in the ordinary course of performing its obligations under such Material Contracts) under or in respect of such Material Contracts in any manner.
- (j) Except as agreed by the Majority Initial Consenting First Lien Lenders, the Companies shall not materially increase compensation or severance entitlements or other benefits payable to directors, officers or employees, including by way of a key employee incentive plan, or pay any bonuses whatsoever, other than in the ordinary course of business and consistent with past practice, as required by law or as contemplated by the Term Sheet.

- (k) The Companies shall not amalgamate, consolidate with or merge into or sell all or substantially all of their assets to another entity, or change the nature of their business or their corporate or capital structure, other than with the consent of the Majority Initial Consenting First Lien Lenders.
- (l) The Companies shall not (i) prepay, redeem prior to maturity, defease, repurchase or make other prepayments in respect of any non-revolving indebtedness (except for any prepayments required pursuant to Section 2.06 of the First Lien Credit Agreement), (ii) directly or indirectly, create, incur, assume, guarantee or otherwise become directly or indirectly liable with respect to any indebtedness of any kind whatsoever, other than in the ordinary course of business and consistent with past practice, and (iii) create, incur, assume or otherwise cause or suffer to exist or become effective any lien, charge, mortgage, hypothec or security interest of any kind whatsoever on, over or against any of their assets or property, in each case other than with the consent of the Majority Initial Consenting First Lien Lenders.
- (m) The Companies shall not transfer, lease, license or otherwise dispose of all or any part of their property, assets or undertakings outside the ordinary course consistent with past practice, other than with the consent of the Majority Initial Consenting First Lien Lenders.
- (n) The Companies shall operate their business in the ordinary course of business, having regard to the Companies' financial condition, and, in any event, the Companies shall not, other than as contemplated by this Support Agreement, enter into any material agreement, unless it has provided five (5) business days' notice of same to the Advisors and has not received an objection to same.
- (o) The Companies shall comply with all terms and provisions of the First Lien Credit Agreement, other than (i) the requirement to repay all principal amounts upon maturity; (ii) the requirements under section 7.10 the First Lien Credit Agreement; and (iii) any requirements to comply with the Second Lien Credit Agreement.
- (p) The Borrower shall continue to pay any and all unpaid interest accruing and owing under the First Lien Credit Agreement as and when due under the First Lien Credit Agreement, which interest shall accrue (and have accrued) at the Default Rate (as defined in the First Lien Credit Agreement) from and after the Maturity Date (as defined in the First Lien Credit Agreement).
- (q) Neither of the Companies shall, directly or indirectly, do any of the following, other than as consented to by the Majority Initial Consenting First Lien Lenders:
 - (i) issue, sell, grant, pledge, assign, dispose of, encumber or agree to issue, sell, grant, pledge, assign, dispose of or encumber any shares or other securities of, or any options, warrants, calls, conversion privileges or rights of any kind to acquire any of its securities;

- (ii) amend or propose to amend its certificate of incorporation, articles, by-laws or other constating documents;
 - (iii) declare, set aside or pay any dividend or other distribution payable in cash, stock, property or otherwise with respect to any of its shares;
 - (iv) redeem, purchase or offer to purchase any of its securities;
 - (v) reduce its capital or the stated capital;
 - (vi) (A) acquire or agree to acquire (by merger, amalgamation, acquisition of securities or assets or otherwise) any Person or (B) make any investment either by purchase of securities, contributions of capital, property transfer or purchase of any property or assets of any other Person;
 - (vii) other than in respect of plate costs for book development (including digital), incur or commit to incur any capital expenditures in excess of \$500,000 other than pursuant to the Material Contracts unless it has provided five (5) business days' notice of same to the Advisors and has not received an objection to same;
 - (viii) make any payment in connection with the Second Lien Credit Agreement, including (x) any interest or other payment that is due or that may become due pursuant to the Second Lien Credit Agreement, and (y) any payment for fees, costs or expenses to any legal, financial or other advisor to the Second Lien Agent;
 - (ix) waive, release, assign, settle or compromise any claims or liabilities in excess of \$150,000; or
 - (x) make any changes in accounting methods, principles, policies or practices, except insofar as may be required by generally accepted accounting principles as in effect from time to time in Canada or applicable laws.
- (r) Each of the Companies shall promptly notify the Advisors of:
- (i) any resignation of, or leave of absence taken by, any of its directors or senior officers;
 - (ii) any claims threatened or brought against it in excess of \$25,000; or
 - (iii) any event, condition or development that has resulted in the inaccuracy or breach, in any material respect, of any representation or warranty, covenant or agreement contained in this Support Agreement made by or to be complied with by it.
- (s) The Companies shall at all times prior to the termination of this Support Agreement carry on their business only in the ordinary course consistent with past

practice, except as may be expressly otherwise provided for in this Support Agreement or as may be consented to by the Majority Initial Consenting First Lien Lenders.

- (t) The Companies shall maintain and shall continue to maintain appropriate insurance coverage in amounts and on terms that are customary in the industry of the Company.
- (u) The Companies shall forthwith upon receipt pay the reasonable and documented fees of the Advisors pursuant to and in accordance with their respective engagement letters or other arrangements or practices in place prior to the date hereof.
- (v) The Companies shall provide to the Advisors and each First Lien Lender, subject to the confidentiality restrictions in the First Lien Credit Agreement, on or before the date hereof, a one year budget for the Companies.
- (w) The Companies shall provide to the Advisors and each Consenting First Lien Lender, subject to appropriate confidentiality restrictions being put in place with respect to the Consenting First Lien Lenders:
 - (i) on or before the date hereof, a weekly cash flow projection reflecting the projected cash requirements of the Companies for the thirteen (13) week period commencing on September 1, 2014; and
 - (ii) monthly financial statements for the Borrower within fourteen (14) business days from the end of each applicable month.
- (x) The Borrower's CEO and CFO shall, on or before September 23, 2014, participate in an update call with the First Lien Lenders to discuss the business, market overview and other key financial matters.

6. Negotiation of Documents

- (a) The Parties shall cooperate with each other and shall coordinate their activities (to the extent reasonably practicable) in respect of (i) the timely satisfaction of conditions with respect to the effectiveness of the Recapitalization Transaction and the Credit Bid, (ii) all matters concerning the implementation of the Recapitalization Transaction and the Credit Bid, and (iii) the pursuit and support of the Recapitalization Transaction and the Credit Bid. Furthermore, subject to the terms hereof, each of the Parties shall take such actions as may be reasonably necessary to carry out the purposes and intent of this Support Agreement, including making and filing any required regulatory filings (provided that Consenting First Lien Lenders shall not be required to incur any expense, liability or other obligation that is not reimbursed by the Companies).
- (b) Each Party hereby covenants and agrees (i) to cooperate and negotiate in good faith, and consistent with this Support Agreement, the definitive documents

implementing, achieving and relating to the Recapitalization Transaction and the Credit Bid, all ancillary documents relating thereto, and any orders of the Court relating thereto, each of which shall contain terms and conditions consistent in all material respects with the Term Sheet, and (ii) to execute (to the extent they are a party thereto) and otherwise support such documents.

- (c) The Borrower shall work cooperatively with the Advisors to prepare and finalize all documentation (including, without limitation, the Court documents, the Credit Bid, the Newco First Lien Credit Agreement (as defined in the Term Sheet) and the Newco Transfer and Assumption Agreement (as defined in the Term Sheet)) utilized to effect the Recapitalization Transaction. All such documentation shall be in form and substance acceptable to the Majority Initial Consenting Lenders, acting reasonably.

7. Conditions to Consenting First Lien Lenders' Obligations

Notwithstanding anything to the contrary contained in this Support Agreement and without limiting any other rights of the Consenting First Lien Lenders hereunder, the obligations of the Consenting First Lien Lenders shall be specifically and expressly subject to each and all of the following conditions:

- (a) the Companies shall have executed this Support Agreement and delivered their signature pages hereto to the Consenting First Lien Lenders;
- (b) all material agreements, consents and other material documents relating to the Restructuring, the Recapitalization Transaction and the Credit Bid shall be in form and content satisfactory to the Majority Initial Consenting First Lien Lenders, acting reasonably;
- (c) all orders made and judgments rendered by any competent court of law, and all rulings and decrees of any competent regulatory body, agent or official in relation to the Restructuring Proceedings shall be satisfactory to the Majority Initial Consenting First Lien Lenders, acting reasonably, including, without limitation, all court orders to be made in relation to the Restructuring Proceedings (except in the case of the Court order vesting the assets of the Companies in Newco which shall be in form and substance acceptable to the Majority Initial Consenting First Lien Lenders in their sole discretion);
- (d) all actions taken by the Companies in furtherance of the Restructuring and the Credit Bid shall be consistent in all material respects with this Support Agreement;
- (e) the Companies shall have complied in all material respects with each of their covenants and obligations under or in respect of this Support Agreement (including, for greater certainty, the Term Sheet);
- (f) there shall not have occurred, after the date hereof, any change, effect, event, occurrence or state of facts (other than matters related to the First Lien Credit

Agreement or the Second Lien Credit Agreement) that, individually or in the aggregate, is, or could reasonably be expected to be, materially adverse to the business, properties, assets (tangible or intangible), liabilities (absolute, accrued, contingent or otherwise), condition (financial or otherwise), capitalization, operation or results of operations of the Companies, taken as a whole; and

- (g) following the execution of definitive documentation with respect to the Credit Bid, such definitive documentation shall be in full force and effect and the parties thereto shall be in compliance in all material respects with each of their covenants and obligations in such definitive documentation.

8. Conditions to the Companies' Obligations

Notwithstanding anything to the contrary contained in this Support Agreement and without limiting any other rights of the Companies hereunder, the obligations of the Companies under this Support Agreement shall be specifically and expressly subject to each and all of the following conditions:

- (a) the Consenting First Lien Lenders shall have complied in all material respects with each of their covenants and obligations in this Support Agreement (including, for greater certainty, the Term Sheet) that is to be performed on or before the implementation of the Restructuring;
- (b) following the execution of definitive documentation with respect to the Credit Bid, such definitive documentation shall be in full force and effect and the parties thereto shall be in compliance in all material respects with each of their covenants and obligations in such definitive documentation; and
- (c) all orders made and judgments rendered by any competent court of law, and all rulings and decrees of any competent regulatory body, agent or official in relation to the Restructuring Proceedings shall be satisfactory to the Companies, acting reasonably, including, without limitation, all court orders to be made in relation to the Restructuring Proceedings.

9. Information and Access

Subject to confidentiality agreements acceptable to the Companies being in place and subject to the terms of such confidentiality agreements, the Companies shall provide to each Consenting First Lien Lender and the Advisors on a timely basis: (a) any and all information, documents, materials, and access reasonably requested by the Majority Initial Consenting First Lien Lenders or the Advisors, and (b) any and all other information which might be reasonably expected to be of material interest to them in relation to this Support Agreement, the Restructuring or the Recapitalization Transaction. The Companies shall promptly notify the Consenting First Lien Lenders if there has been any material change in any of the information the Companies have provided to the Consenting First Lien Lenders and/or the Advisors in connection with the transactions contemplated by this Support Agreement, the Restructuring or the Recapitalization Transaction. The Companies agree that if at any time during the terms of this Support

Agreement the Companies have actual knowledge of the fact that any of the material assumptions upon which any Projections provided to the Consenting First Lien Lenders and/or the Advisors are based are no longer reasonable if they were being furnished at such time, then the Companies will promptly supplement, or cause to be supplemented, such projections.

10. Superior Proposal

- (a) The Companies shall diligently and in good faith pursue the SISP pursuant to and in accordance with the terms of the Term Sheet and shall consummate an investment or a sale of all or substantially all of their assets pursuant to such process in lieu of the Recapitalization Transaction, provided that any such sale or investment is a Superior Offer (as defined in the Term Sheet) and provided further that the Borrower does not otherwise repay all obligations under the First Lien Credit Agreement in accordance with the terms of the Term Sheet.
- (b) Subject to Section 10(a), in the event the Recapitalization Transaction is to be implemented pursuant to the Credit Bid pursuant to the Term Sheet, the Companies shall pursue and support the Credit Bid promptly in good faith upon the terms and conditions set forth herein and in the Credit Bid, and shall not take any steps or actions that could reasonably be expected to prevent, delay or impede the successful and timely implementation of the Recapitalization Transaction, or take any other action that is inconsistent with, or that could reasonably be expected to impede the consummation or effectiveness of the Recapitalization Transaction, except, in each case, with the approval of the Majority Initial Consenting First Lien Lenders.
- (c) Other than through and in accordance with the SISP and this Support Agreement, the Companies shall not directly or indirectly through any representative: (i) pursue, accept, approve, endorse or recommend or propose publicly to accept, approve, endorse or recommend any other transaction that does not result in the repayment of all obligations under the First Lien Credit Agreement (an "**Other Transaction**"); or (ii) enter into, or publicly propose to enter into, any agreement in respect of any Other Transaction; provided for greater certainty that nothing in this Section 10(c) shall prohibit or restrict in any way the Companies' rights under the SISP to solicit, discuss and negotiate a potential Superior Offer, all in each case in accordance with the terms of the SISP and this Support Agreement.

11. Termination

- (a) This Support Agreement may be terminated by the Majority Initial Consenting First Lien Lenders, in their sole discretion, by providing written notice to the Companies, upon:
 - (i) the Companies failing to meet any of the timeline requirements set forth in the Term Sheet within the times set forth therein (as such times may be extended in accordance with the terms hereof);

- (ii) the Companies breaching any of their obligations, covenants, representations or warranties under this Support Agreement (including the Term Sheet), provided that if such obligation, covenant, representation or warranty is curable, it remains uncured for five (5) business days after receipt by the Companies of written notice thereof;
- (iii) the Companies breaching any of their obligations, covenants, representations or warranties under the First Lien Credit Agreement, provided that if such obligation, covenant, representation or warranty is curable, it remains uncured for five (5) business days after receipt by the Companies of written notice thereof, and further provided that the Majority Initial Consenting First Lien Lenders shall not have the right to terminate in respect of the Companies failing to: (i) repay all principal amounts upon maturity; (ii) comply with the requirements under section 7.10 of the First Lien Credit Agreement; or (iii) comply with the Second Lien Credit Agreement;
- (iv) in the event the Recapitalization Transaction is to be implemented pursuant to the Credit Bid, (a) definitive documentation with respect to the Credit Bid not being finalized on or before October 31, 2014, or such later date as may be agreed to by the Majority Initial Consenting First Lien Lenders and the Companies, and (b) following the execution of such definitive documentation, the Credit Bid being terminated in accordance with its terms;
- (v) the issuance of any preliminary or final decision, order or decree by a governmental entity, or the commencement of an action or investigation by any governmental entity, in consequence of or in connection with the Recapitalization Transaction, which restrains, impedes or prohibits the Recapitalization Transaction;
- (vi) the appointment of a receiver, interim receiver, receiver and manager, trustee in bankruptcy, liquidator or administrator with respect to the Companies, unless such appointment is made with the prior written consent of the Majority Initial Consenting First Lien Lenders;
- (vii) any of the conditions set out in Section 7 not being waived, or satisfied and discharged in accordance with the terms thereof;
- (viii) if the process to implement the Credit Bid is not agreed to by the Borrower and the Majority Initial Consenting First Lien Lenders by November 14, 2014, or such later date as may be agreed to by the Borrower and the Majority Initial Consenting First Lien Lenders;
- (ix) if the Initial First Lien Early Consent Fee (as defined in the Term Sheet) or the Additional First Lien Early Consent Fee (as defined in the Term Sheet)

is not paid on the timeline set out in the Term Sheet, subject to a three (3) business day cure period; or

- (x) if the Restructuring has not been completed by February 1, 2015, or such later date as may be agreed to by the Majority Initial Consenting First Lien Lenders and the Companies (the “**Outside Date**”),

in each case unless the event giving rise to the termination right is waived or cured in accordance with the terms hereof.

- (b) This Support Agreement may be terminated by the Companies, by providing written notice to the Consenting First Lien Lenders:
 - (i) (A) with respect to any Consenting First Lien Lender, if such Consenting First Lien Lender has breached any of its obligations, covenants, representations or warranties under this Support Agreement, provided that if such obligation, covenant, representation or warranty is curable, it remains uncured for five (5) business days after receipt by the applicable Consenting First Lien Lender of written notice thereof, and
 - (B) with respect to all of the Consenting First Lien Lenders if at any time the aggregate outstanding principal amount of the Loans held by all Consenting First Lien Lenders does not equal at least a majority of the aggregate outstanding principal amount of the Loans, and remains uncured for five (5) business days; or
 - (ii) in the event the Recapitalization Transaction is to be implemented pursuant to the Credit Bid, (a) definitive documentation with respect to the Credit Bid not being finalized on or before October 31, 2014, or such later date as may be agreed to by the Majority Initial Consenting First Lien Lenders and the Companies, and (b) following the execution of such definitive documentation, the Credit Bid being terminated in accordance with its terms;
 - (iii) upon the issuance of any preliminary or final decision, order or decree by a governmental entity, or the commencement of an action or investigation by any governmental entity, in consequence of or in connection with the Recapitalization Transaction, which restrains, impedes or prohibits the Recapitalization Transaction;
 - (iv) any of the conditions set out in Section 8 not being waived, or satisfied and discharged in accordance with the terms thereof, or
 - (v) if the Restructuring has not been completed by the Outside Date.
- (c) This Support Agreement may be terminated at any time by mutual written consent of the Companies and the Majority Initial Consenting First Lien Lenders.

- (d) This Support Agreement shall automatically terminate following the completion of the Restructuring on the Effective Date (as defined in the Term Sheet).
- (e) Subject to paragraph 11(g) below, this Support Agreement, upon its termination, shall be of no further force and effect and each Party hereto shall be automatically and simultaneously released from its commitments, undertakings, and agreements under or related to this Support Agreement.
- (f) Each Party shall be responsible and shall remain liable for any breach of this Support Agreement by such Party (but not, in the case of Consenting First Lien Lenders, the breach by any other Consenting First Lien Lender) occurring prior to the termination of this Support Agreement.
- (g) Notwithstanding the termination of this Support Agreement pursuant to this Section 11, the agreements and obligations of the Parties in Sections 4(g), 5(h), 5(p), 5(u), 12(a), 15(j) through 15(r) shall survive such termination and shall continue in full force and effect for the benefit of the Parties in accordance with the terms hereof, and the agreements and obligations of the Parties in Section 12(b) shall survive termination and shall continue in full force and effect for the benefit of the Parties in accordance with the terms hereof for a period of twelve (12) months from the date of termination of this Support Agreement.

12. Confidentiality

- (a) Each of the Companies agrees to maintain the confidentiality of the identity and the specific holdings of each Consenting First Lien Lender, provided however, that such information may be disclosed: (i) to the Company's directors, trustees, executives, officers, auditors, employees and financial and legal advisors or other agents (collectively referred to herein as the "**Representatives**" and individually as a "**Representative**") provided that each such Representative is informed of, and directed to comply with, this confidentiality provision; (ii) to the First Lien Agent, and (iii) to persons in response to, and to the extent required by, (x) any subpoena, or other legal process, including, without limitation, by a court of competent jurisdiction or applicable rules, regulations or procedures of a court of competent jurisdiction, or (y) any regulatory agency or authority. If any of the Companies or any of their Representatives receives a subpoena or other legal process as referred to in clause (ii)(x) above in connection with this Support Agreement, the Companies shall provide the applicable Consenting First Lien Lenders with prompt written notice of any such request or requirement, to the extent permissible and practicable under the circumstances, so that the Consenting First Lien Lenders may seek a protective order or other appropriate remedy. Each Consenting First Lien Lender agrees that the Companies are permitted to publicly disclose the existence, content, terms and factual details of this Support Agreement, including the aggregate holdings of the Consenting First Lien Lenders, (but not the identity and specific individual holdings of, any Consenting First Lien Lender), including, without limitation, in press releases and court materials, produced by the Companies in connection with the Restructuring.

Except as set forth in this Section 12, nothing in this Support Agreement shall obligate the Companies to make any public disclosure of this Support Agreement.

- (b) Each Consenting First Lien Lender hereby acknowledges and agrees that any information designated as confidential by the Companies provided to such Consenting First Lien Lender pursuant to or in connection with this Support Agreement (including, for greater certainty, pursuant to or in connection with the Term Sheet and the SISP) (collectively, the "Confidential Information"), shall be kept confidential and shall not be used, disclosed, discussed or made available by such Consenting First Lien Lender and shall be subject to the confidentiality provisions contained in the First Lien Credit Agreement and the provisions of this Section 12(b); provided, however, that, notwithstanding the confidentiality provisions contained in the First Lien Credit Agreement, the Consenting First Lien Lender shall not disclose, discuss or make available any Confidential Information to: (i) any party under subsections 10.08(e) or (i) of the First Lien Credit Agreement; or (ii) another First Lien Lender unless such First Lien Lender is a Consenting First Lien Lender party to this Support Agreement or has entered into a confidentiality agreement acceptable to the Borrower, provided that the Consenting First Lien Lender may disclose such Confidential Information (x) to any First Lien Lender if such Confidential Information has otherwise been provided to the First Lien Lenders by the Borrower or its representatives pursuant to the First Lien Credit Agreement or (y) to a recipient that agrees in writing with the First Lien Agent and the Borrower to be bound by the confidentiality provisions contained herein and in the First Lien Credit Agreement.

13. Additional Consenting First Lien Lenders

Each Party hereby acknowledges that additional First Lien Lenders may join this Support Agreement at any time by agreeing pursuant to a joinder agreement in the form attached as Schedule B to be bound by all of the terms of this Support Agreement as if such First Lien Lender had originally executed this Support Agreement in respect of all Loans and Second Lien Loans (if applicable) beneficially owned and/or managed by such First Lien Lender (each such First Lien Lender, an "**Additional Consenting First Lien Lender**" and all such Additional Consenting First Lien Lenders together with the Consenting Transferees, the "**Joining Consenting First Lien Lenders**").

14. Further Assurances

Each Party shall do all such things in its control, take all such actions as are commercially reasonable, deliver to the other Parties such further information and documents and execute and deliver to the other Parties such further instruments and agreements as another Party shall reasonably request to consummate or confirm the transactions provided for in this Support Agreement, to accomplish the purpose of this Support Agreement or to assure to the other Party the benefits of this Support Agreement.

15. Miscellaneous

- (a) The agreements, representations, warranties and covenants of the Consenting First Lien Lenders herein are, in all respects, several, and not joint or joint and several. The agreements, representations, warranties and covenants of the Companies herein are, in all respects, joint and several.
- (b) Nothing in this Support Agreement is intended to preclude the Consenting First Lien Lenders or their respective affiliated funds, investment vehicles, managed accounts or portfolio companies from engaging in any securities transactions, subject to the agreements set forth in Section 4 with respect to the Relevant Loans, Debt and Second Lien Loans.
- (c) The headings in this Support Agreement are for reference only and shall not affect the meaning or interpretation of this Support Agreement.
- (d) Unless the context otherwise requires, words importing the singular shall include the plural and vice versa and words importing any gender shall include all genders.
- (e) This Support Agreement (including all schedules hereto) constitutes the entire agreement and supersedes all prior agreements and understandings, both oral and written, among the Parties with respect to the subject matter hereof.
- (f) In this Support Agreement, (i) the **"Initial Consenting First Lien Lenders"** means the First Lien Lenders in the First Lien Steering Committee (as defined in the Term Sheet) and (ii) **"Majority Initial Consenting First Lien Lenders"** means Initial Consenting First Lien Lenders holding not less than a majority of the principal amount of Loans held by all Initial Consenting First Lien Lenders. For purposes of this Support Agreement, the Companies shall be entitled to rely on written confirmation from Willkie Farr & Gallagher LLP or Bennett Jones LLP that the Majority Initial Consenting First Lien Lenders have agreed, waived, consented to or approved a particular matter. Willkie Farr & Gallagher LLP and Bennett Jones LLP shall be entitled to rely on a communication in any form acceptable to Willkie Farr & Gallagher LLP and Bennett Jones LLP, in their sole discretion, from any Initial Consenting First Lien Lenders for the purpose of determining whether such Initial Consenting First Lien Lender has agreed, waived, consented to or approved a particular matter, and the principal amount of Loans held by such Initial Consenting First Lien Lender.
- (g) This Support Agreement may be modified, amended or supplemented as to any matter in writing signed by the Companies and the Majority Initial Consenting First Lien Lenders, provided, however, that a Superior Offer must (i) provide for net sale or investment proceeds sufficient to provide for the payment in full in cash of all obligations under the First Lien Credit Agreement, or (ii) be acceptable to First Lien Lenders holding at least 66^{2/3}% of the principal amounts outstanding under the First Lien Credit Agreement, in their sole discretion.

- (h) Any provision of this Support Agreement may be waived if, and only if, such waiver is in writing and signed by the Party against whom the waiver is to be effective (or, in the case of the Majority Initial Consenting First Lien Lenders, Willkie Farr & Gallagher LLP or Bennett Jones LLP). A waiver by the Consenting First Lien Lenders will require the agreement of the Majority Initial Consenting First Lien Lenders in order to be effective, provided, however, that a Superior Offer must (i) provide for net sale or investment proceeds sufficient to provide for the payment in full in cash of all obligations under the First Lien Credit Agreement, or (ii) be acceptable to First Lien Lenders holding at least 66^{2/3}% of the principal amounts outstanding under the First Lien Credit Agreement, in their sole discretion. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise.
- (i) Any date, time or period referred to in this Support Agreement shall be of the essence except to the extent to which the Parties agree in writing to vary any date, time or period, in which event the varied date, time or period shall be of the essence.
- (j) This Support Agreement is to be governed and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein applicable to contracts made and to be performed in such province, without giving effect to the conflict of laws principles thereof, and all actions or proceedings arising out of or relating to this Support Agreement shall be heard and determined exclusively in the courts of the Province of Ontario.
- (k) It is understood and agreed by the Parties that money damages would not be a sufficient remedy for any breach of Sections 4(b), 4(c) and/or 4(d) by any of the Consenting First Lien Lenders and each non-breaching Party shall be entitled to specific performance and injunctive or other equitable relief as a remedy of any such breach, including an order by a court of competent jurisdiction requiring any Party to comply promptly with any of such obligations.
- (l) Unless expressly stated otherwise herein, this Support Agreement is intended to solely bind and inure to the benefit of the Parties and their respective successors, permitted assigns, heirs, executors, administrators and representatives, and, with respect to Section 5(h) to also inure to the benefit of the respective persons named therein and their respective successors, permitted assigns, heirs, executors, administrators and representatives. No other person or entity shall be a third party beneficiary hereof.
- (m) No Party may assign, delegate or otherwise transfer any of its rights, interests or obligations under this Support Agreement without the prior written consent of the other Parties hereto, except by the Consenting First Lien Lenders with respect to a Transfer of Relevant Loans and Debt in compliance with and to the extent permitted by Section 4(b)(i).

- (n) All notices, requests, consents and other communications hereunder to any Party shall be deemed to be sufficient if contained in a written instrument delivered in person or sent by facsimile, internationally-recognized overnight courier or email. All notices required or permitted hereunder shall be deemed effectively given: (i) upon personal delivery to the Party to be notified; (ii) when sent by facsimile or email if sent during normal business hours of the recipient, if not, then on the next business day of the recipient; or (iii) one business day after deposit with an internationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All deliveries required or permitted hereunder shall be deemed effectively made: (i) upon personal delivery to the Party receiving the delivery; (ii) one business day after deposit with an internationally recognized overnight courier, specifying next day delivery, with written verification of receipt; or (iii) upon receipt of delivery in accordance with instructions given by the Party receiving the delivery. Any Party may change the address to which notice should be given to such Party by providing written notice to the other Parties hereto of such change. The address, facsimile and email for each of the Parties shall be as follows:

- (i) If to the Borrower, Holdings or the Companies at:

c/o Nelson Education Ltd.
1120 Birchmount Road
Scarborough, ON M1K 5G4

Attention: Greg Nordal

Facsimile: 416.752.8101
Email: greg.nordal@nelson.com

With a required copy (which shall not be deemed notice) to:

Goodmans LLP
333 Bay Street, Suite 3400
Toronto, ON M5H 2S7

Attention: Robert J. Chadwick & Caroline Descours

Facsimile: 416.979.1234
Email: rchadwick@goodmans.ca & cdescours@goodmans.ca

- (ii) If to one or more Initial Consenting First Lien Lenders or Consenting First Lien Lenders at:

The address set forth for each applicable Initial Consenting First Lien Lender or Consenting First Lien Lenders at the address shown for it beside its signature.

With a required copy (which shall not be deemed notice) to:

Willkie Farr & Gallagher LLP
787 Seventh Avenue
New York, NY 10019-6099

Attention: Paul V. Shalhoub

Facsimile: 212.728.9764
Email: pshalhoub@willkie.com

- and -

Bennett Jones LLP
3400 One First Canada Place
Toronto, ON M5X 1A4

Attention: Kevin J. Zych & Sean H. Zweig

Facsimile: 416.863.1716
Email: zychk@bennettjones.com & zweigs@bennettjones.com

- (o) The payment and issuance of fees, costs, expenses, compensation and other amounts under this Support Agreement will be made free and clear of and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charged (including penalties, interest and other liabilities, or expenses related thereto) imposed or levied by or on behalf of any authority or agency having power to tax, except if required by law, subject to Section 3.01(a) of the First Lien Credit Agreement.
- (p) If any term, provision, covenant or restriction of this Support Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions, including terms, covenants and restrictions, of this Support Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and the Parties shall negotiate in good faith to modify this Support Agreement to preserve each Party's anticipated benefits under this Support Agreement.
- (q) Except as explicitly provided for herein, and notwithstanding any termination of this Support Agreement, nothing herein is intended to, or does, in any manner waive, limit, impair or restrict the ability of any Consenting First Lien Lender or the Companies to protect and preserve its rights, remedies and interests (including, with respect to the Consenting First Lien Lenders, their claims against the Companies), and each Party fully reserves any and all of its rights. Nothing herein shall be deemed an admission of any kind.

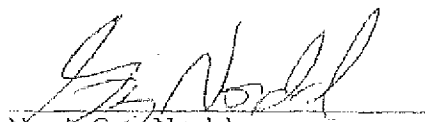
- (r) This Support Agreement may be executed by facsimile or other electronic means and in one or more counterparts, all of which shall be considered one and the same agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, each of the undersigned has caused this Support Agreement to be duly executed and delivered by its proper and duly authorized officer as of the date first written above.

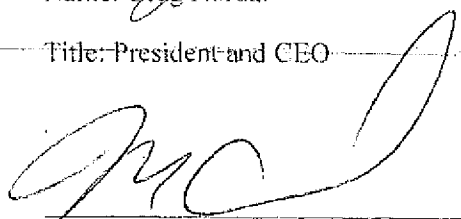
NELSON EDUCATION LTD.

By:


Name: Greg Nordal

Title: President and CEO

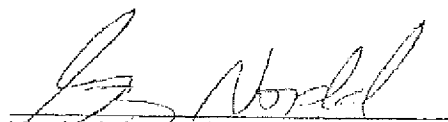
By:


Name: Michael Andrews

Title: SVP Finance and CFO

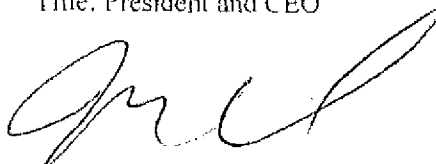
NELSON EDUCATION HOLDINGS LTD.

By:


Name: Greg Nordal

Title: President and CEO

By:


Name: Michael Andrews

Title: SVP Finance and CFO

**WILMINGTON TRUST, NATIONAL
ASSOCIATION, as Administrative Agent
and Collateral Agent**

By: _____

Name: _____

Jeffery Rose

Title: _____

Vice President

STRICTLY CONFIDENTIAL**Name of Consenting First Lien Lender:**

Per:**Name:****Title:****Address:**

Aggregate Principal amount of Loans held by the Consenting First Lien Lender pursuant to the First Lien Credit Agreement	
Aggregate Principal amount of Second Lien Loans held by the Consenting First Lien Lender pursuant to the Second Lien Credit Agreement, if any	

SCHEDULE A
TERM SHEET

September 10, 2014

NELSON EDUCATION LTD.

FIRST LIEN CREDIT FACILITIES

OUTLINE OF CERTAIN KEY TERMS AND CONDITIONS

*This summary of terms and conditions (the “**First Lien Term Sheet**”) is not exhaustive or definitive as to the terms and conditions which would govern any transactions referred to herein. Except as provided herein or in the First Lien Lender Support Agreement (as defined below) to which this First Lien Term Sheet is attached, no term provided herein shall be effective unless and until definitive agreements are entered into by the applicable parties and such definitive agreements become effective in accordance with their terms.*

*Capitalized terms used herein but not otherwise defined herein have the meaning ascribed to them in the First Lien Credit Agreement dated as of July 5, 2007 among Nelson Education Ltd., Nelson Education Holdings Ltd., Royal Bank of Canada as administrative agent, collateral agent and swing line lender, and the other lenders party thereto (as such agreement has been and may be amended from time to time, the “**Existing First Lien Credit Agreement**”).*

I. PARTIES

BORROWER:	Nelson Education Ltd. (the “ Borrower ”)
HOLDINGS:	Nelson Education Holdings Ltd. (“ Holdings ”)
ADMINISTRATIVE AGENT AND COLLATERAL AGENT:	Wilmington Trust, National Association (in such capacity, the “ Agent ”)
LENDERS:	Lenders under the Existing First Lien Credit Agreement (the “ First Lien Lenders ”)
FIRST LIEN STEERING COMMITTEE:	The ad hoc committee of First Lien Lenders represented by Willkie Farr & Gallagher LLP and Bennett Jones LLP (the “ First Lien Steering Committee ”)
NEWCO:	A newly incorporated company (“ Newco ”) to be organized in a jurisdiction acceptable to the First Lien Steering Committee ¹

¹ Matters in this First Lien Term Sheet requiring the acceptance or agreement of the Agent shall require the acceptance or agreement of First Lien Lenders holding a majority of the principal amounts outstanding under the Existing First Lien Credit Agreement. Matters in this First Lien Term Sheet requiring the acceptance or agreement of the First Lien Steering Committee shall require the acceptance or agreement of First Lien Lenders on the First Lien Steering Committee holding a majority of the principal amounts outstanding under the Existing First Lien Credit Agreement held by all members of the First Lien Steering Committee.

II. INITIAL PROCESS STEPS

SALE AND INVESTMENT SOLICITATION PROCESS:

The Borrower shall commence and implement a sale and investment solicitation process prior to the initiation of any court proceedings in form and substance attached as Schedule "A" (the "SISP"), unless the Borrower and the First Lien Steering Committee otherwise agree.

If a written offer acceptable to the Borrower and the First Lien Steering Committee is not received by November 7, 2014 pursuant to the SISP, or such later date as may be agreed to by the Borrower and the First Lien Steering Committee, which (a) would provide for net sale or investment proceeds sufficient to provide for the payment in full in cash of all obligations under the Existing First Lien Credit Agreement, or (b) is otherwise acceptable to First Lien Lenders holding at least 66^{2/3}% of the principal amounts outstanding under the Existing First Lien Credit Agreement, in their sole discretion (a "Superior Offer"), the First Lien Lenders shall credit bid all of the debt owing to them under the Existing First Lien Credit Agreement (the "Credit Bid") to effectuate a conversion of the First Lien Lenders' claims for a new first lien term facility and for Newco common shares (the "Recapitalization Transaction").

If a Superior Offer is received by November 7, 2014 pursuant to the SISP, or such later date as may be agreed to by the Borrower and the First Lien Steering Committee, and (a) such offer is withdrawn, terminated or expires, or (b) binding definitive documentation, in form and substance acceptable to the Borrower and the First Lien Steering Committee, in respect of such offer is not executed by December 15, 2014, then the Borrower shall proceed with the Recapitalization Transaction pursuant to the Credit Bid.

HERITAGE CANADA:

The Borrower and representatives of the First Lien Steering Committee shall collectively engage with Heritage Canada (beginning on or before September 23, 2014) regarding *Investment Canada Act* (Canada) matters, including to update Heritage Canada about the SISP and potential transactions, including the Recapitalization Transaction, and the Borrower shall work cooperatively with the legal and financial advisors to the First Lien Steering Committee in connection with such matters.

CENGAGE MATTERS:

The Borrower and representatives of the First Lien Steering Committee shall collectively engage (beginning on or before September 23, 2014) with Cengage Learning Inc. (formerly Thomson Learning Inc.) ("Cengage") on matters relating to the business of the Borrower and the Operating Agreement between the Borrower and Cengage dated January 1, 2007 and the Master Services Agreement between the Borrower and Cengage dated

July 5, 2007, as amended from time to time, (collectively, the **"Cengage Agreements"**), and the Borrower shall work cooperatively with the legal and financial advisors to the First Lien Steering Committee in connection with Cengage matters.

III. DEBT TO EQUITY CONVERSION

RECAPITALIZATION TRANSACTION:

The Recapitalization Transaction shall include a transaction whereby:

- (a) all or substantially all of the Borrower's assets (including all cash of the Borrower) shall be transferred to Newco, and Newco shall (i) assume all of the Borrower's trade payables, (ii) assume all of the Borrower's contractual obligations (including the Cengage Agreements), and (iii) employ all of the Borrower's employees and assume all obligations in respect thereof (the **"Newco Transfer and Assumption Transaction"**);
- (b) Newco will be the operating entity of the Borrower's business upon successful completion of the Recapitalization Transaction;
- (c) all principal and interest amounts owing by the Loan Parties to the First Lien Lenders under the Existing First Lien Credit Agreement (including all outstanding principal and accrued interest from and after July 5, 2014) shall be credit bid in exchange for (i) 100% of the Newco Common Shares (as defined below) (subject to dilution from any Newco Common Shares issued pursuant to the Management Incentive Plan (as defined below)), and (ii) obligations under the Newco First Lien Term Facility (as defined below) (the **"Debt Conversion"**); and
- (d) each First Lien Lender shall receive its pro rata share of (i) the Newco Common Shares issued to First Lien Lenders pursuant to the Debt Conversion and (ii) the obligations under the Newco First Lien Term Facility, in each case based on the outstanding principal amount of first lien term loans owing to a First Lien Lender in relation to the outstanding aggregate principal amount of first lien term loans owing to all First Lien Lenders as of the Effective Date (as defined below).

NEWCO COMMON SHARES:

The number of new common shares (the **"Newco Common Shares"**) to be issued upon implementation of the Recapitalization Transaction will be agreed upon by the First Lien Steering Committee and the Borrower. No fractional Newco Common Shares shall be issued. Any fractional Newco Common Shares that would have otherwise been issued shall be

rounded down to the nearest whole number.

IV. NEWCO FIRST LIEN TERM FACILITY

NEWCO FIRST LIEN TERM FACILITY:	US\$200 million first lien term facility (the “ Newco First Lien Term Facility ”). A new first lien credit agreement will be entered into with respect to the Newco First Lien Term Facility (the “ Newco First Lien Credit Agreement ”).
MATURITY:	5 years from the Effective Date or January 15, 2020, whichever is later.
INTEREST RATE:	10% cash payable quarterly in arrears, or, at Newco's option with respect to any interest payment, 8% cash and 4% PIK.
BORROWER:	Newco.
GUARANTORS:	All existing and future subsidiaries of Newco.
SECURITY:	First lien security interest in substantially all assets of Newco and the Guarantors.
AGENT:	The Agent or such other agent acceptable to the First Lien Steering Committee (in such capacity, the “ New Agent ”).
RANKING:	First lien senior secured, subject to the Revolving Facility (as defined below) (if any).
MANDATORY PREPAYMENTS:	Substantially the same as under the Existing First Lien Credit Agreement, with such changes as shall be agreed upon by the Borrower and the First Lien Steering Committee, including 25% excess cash flow sweep (on terms to be agreed regarding what constitutes excess cash flow) beginning following the first full fiscal year after the Effective Date.
VOLUNTARY PREPAYMENTS AND REPURCHASES:	Voluntary prepayments allowed at any time as under the Existing First Lien Credit Agreement.
REPRESENTATIONS AND WARRANTIES:	Substantially the same as under the Existing First Lien Credit Agreement, subject to amendment for current status.
AFFIRMATIVE COVENANTS:	Substantially the same as under the Existing First Lien Credit Agreement, with such changes as shall be agreed upon by the Borrower and the First Lien Steering Committee.
NEGATIVE COVENANTS:	Substantially the same as under the Existing First Lien Credit Agreement, with such changes as shall be agreed upon by the Borrower and the First Lien Steering Committee, including with respect to material transactions and the removal of the Adjusted

	Senior Secured Leverage Ratio.
FINANCIAL COVENANTS:	None.
UNRESTRICTED SUBSIDIARIES:	None.
EVENTS OF DEFAULT:	Substantially the same as under the Existing First Lien Credit Agreement, with such changes as shall be agreed upon by the Borrower and the First Lien Steering Committee.
DEFAULT RATE:	Any principal or interest payable under or in respect of the Newco First Lien Term Facility not paid when due shall, to the extent permitted by law, bear interest at the applicable interest rate plus 2% per annum.
REPORTING:	Borrower shall (i) provide annual and interim financial statements (and related MD&A) in the form prescribed for US registrants within fifteen (15) calendar days after the end of each quarter, and (ii) forthwith thereafter host quarterly calls with the lenders to discuss the foregoing.
VOTING:	Substantially the same as under the Existing First Lien Credit Agreement.
COST AND YIELD PROTECTION:	Substantially the same as under the Existing First Lien Credit Agreement, with such changes as shall be agreed upon (including updating for Dodd-Frank and Basel III).
ASSIGNMENTS AND PARTICIPATIONS:	Substantially the same as under the Existing First Lien Credit Agreement.
EXPENSES AND INDEMNIFICATION:	Substantially the same as under the Existing First Lien Credit Agreement.
OTHER TERMS:	Other terms generally consistent with the Existing First Lien Credit Agreement and as agreed to by the Borrower and the First Lien Steering Committee.
GOVERNING LAW AND FORUM:	New York.

V. OTHER RECAPITALIZATION TRANSACTION TERMS

EFFECTIVE DATE:	If: a Superior Offer (a) is not received by November 7, 2014 pursuant to the SISP, or such later date as may be agreed to by the Borrower and the First Lien Steering Committee, or (b) is timely received but such offer is withdrawn, terminated or expires or binding definitive documentation, in form and substance acceptable to the Borrower and the First Lien Steering
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Committee, in respect of such offer is not executed by December 15, 2014, or such later date as may be agreed to by the Borrower and the First Lien Steering Committee, then the Recapitalization Transaction shall become effective on the date that the Recapitalization Transaction is effectuated ("**Effective Date**").

REVOLVING CREDIT FACILITY:

The Borrower may procure a senior secured multi-currency "first out" asset-based revolving credit facility in an amount up to Cdn\$20 million (the "**Revolving Facility**") which will include the following terms:

- Available for general corporate purposes.
- Loans under the Revolving Facility will be available at any time prior to the maturity of the Revolving Facility and amounts repaid under the Revolving Facility may be re-borrowed.
- Senior secured in priority to the Newco First Lien Term Facility security.
- Other terms acceptable to the First Lien Steering Committee.

CONDITIONS PRECEDENT:

Usual and customary closing conditions for transactions of this type, including but not limited to:

A Superior Offer shall not have been received and consummated.

Receipt by the Agent of definitive legal documentation (the "**Definitive Documents**") implementing the Recapitalization Transaction, which Definitive Documents shall be in form and substance acceptable to the Borrower and First Lien Steering Committee.

Payment of the Initial First Lien Early Consent Fee (as defined below) on September 30, 2014, and payment of the Additional First Lien Early Consent Fee (as defined below) on the applicable Additional First Lien Early Consent Fee Payment Dates (as defined below).

Customary regulatory approvals, including any approvals required by Heritage Canada on terms satisfactory to the First Lien Steering Committee.

The Newco Transfer and Assumption Transaction shall have been completed on terms acceptable to the Borrower and the First Lien Steering Committee.

Receipt by the Agent of all unpaid fees up to the Effective Date owing to the First Lien Lenders and the Agent under the Existing

First Lien Credit Agreement, to be paid in full in cash.

Payment by the Borrower of all accrued and unpaid fees and expenses incurred by the Borrower's legal and financial advisors that have been invoiced prior to the Effective Date.

Payment by the Borrower of all accrued and unpaid expenses of the Agent and the First Lien Lenders, including the professional fees and expenses of Willkie Farr Gallagher LLP, Bennett Jones LLP and AlixPartners, that have been invoiced prior to the Effective Date.

Customary and appropriate corporate governance agreements/shareholder agreements being entered into in respect of Newco, such agreements to be acceptable to Newco and the First Lien Steering Committee.

Any required approvals by the Court and the First Lien Lenders.

The results of any confirmatory diligence to be conducted by the Agent and/or the First Lien Steering Committee being satisfactory to the Agent and the First Lien Steering Committee, as applicable, by September 19, 2014.

CORPORATE GOVERNANCE:

The board of directors of Newco upon implementation of the Recapitalization Transaction (the "**New Board**") will be comprised of 5 directors, or such higher number of directors as determined by the First Lien Steering Committee, who will be selected as follows:

- The Chief Executive Officer of Newco shall occupy one position on the New Board.
- The First Lien Steering Committee, in consultation with the Borrower, shall designate the remaining individuals to the New Board.

EMPLOYEE MATTERS:

All existing key employee retention amounts payable by the Borrower shall be paid by the Borrower, or as the Borrower directs, in full in cash on the date otherwise payable pursuant to the terms of any such retention plan.

A management incentive plan (the "**Management Incentive Plan**") shall be in place on terms acceptable to the New Board within ninety (90) days following the Effective Date.

Key management employment agreements shall be in place on terms acceptable to First Lien Steering Committee and such key management employees on the Effective Date, or all payments in respect of the existing contractual employment arrangements shall be made to such key management pursuant to their existing

employment agreements as part of any transition arrangements.

The Borrower's obligations to its employees shall be assumed by Newco and shall remain unaffected by the Recapitalization Transaction.

RELEASES, ETC.:

Usual and customary for transactions of this nature, including, but not limited to:

Each of the Loan Parties, Newco, the First Lien Lenders and the Agent, and their respective present and former direct and indirect shareholders, officers, directors, employees, advisors (including, without limitation, financial advisors), legal counsel and agents (the "**Released Parties**") shall be released from all present and future actions, causes of action, damages, judgments, executions, and claims including, without limitation, in connection with all matters related to the Existing First Lien Credit Agreement, the other Loan Documents and the transactions contemplated herein; provided that the Released Parties shall not be released from or in respect of any of their respective obligations under the Recapitalization Transaction, the Credit Bid, the First Lien Support Agreement, the Newco First Lien Credit Agreement or any document ancillary to any of the foregoing; and provided further that a Released Party shall not be released if the Released Party is adjudged by the express terms of a judgment rendered on a final determination on the merits by a court of competent jurisdiction to have committed fraud.

TAX CONSIDERATIONS:

The Recapitalization Transaction will be structured in a manner acceptable to the Borrower, Newco and the First Lien Steering Committee to effectuate the terms and conditions outlined herein in a tax efficient and acceptable manner for the Borrower, Newco and the First Lien Steering Committee.

DEFINITIVE DOCUMENTS:

The Borrower shall work cooperatively with the legal and financial advisors to the First Lien Steering Committee to prepare and finalize all documentation utilized to effect the Recapitalization Transaction (including, without limitation, the Court documents, the Credit Bid, the Newco First Lien Credit Agreement and the Newco Transfer and Assumption Transaction) concurrently with the SISP. All such documentation shall be in form and substance acceptable to the Agent and the First Lien Steering Committee. The Borrower shall provide the legal and financial advisors to the First Lien Steering Committee with all information related to the Borrower or its business necessary for the preparation of such documentation, as well as the drafts of such documentation.

VI. IMPLEMENTATION

RECAPITALIZATION TRANSACTION:

If a Superior Offer (a) is not received by November 7, 2014 pursuant to the SISP, or such later date as may be agreed to by the Borrower and the First Lien Steering Committee, or (b) is timely received but such offer is withdrawn, terminated or expires or binding definitive documentation, in form and substance acceptable to the Borrower and the First Lien Steering Committee, in respect of such offer is not executed by December 15, 2014, or such later date as may be agreed to by the Borrower and the First Lien Steering Committee, then the Recapitalization Transaction shall be effectuated through the Credit Bid.

In the event the Recapitalization Transaction is to be so effectuated, the Borrower shall work cooperatively with the First Lien Steering Committee, and its legal and financial advisors, in respect of all matters necessary to implement the Recapitalization Transaction (all in form and substance satisfactory to the First Lien Steering Committee).

In the event the Recapitalization Transaction is to be so effectuated, the process to implement the Recapitalization Transaction through the Credit Bid shall be agreed to by the Borrower and the First Lien Steering Committee by November 14, 2014, or such later date as may be agreed to by the Borrower and the First Lien Steering Committee. To the extent any transaction contemplated by this First Lien Term Sheet, including, without limitation, the Recapitalization Transaction and any Alternative Transaction (as defined below), is implemented pursuant to a court process, the Consenting First Lien Lenders (as defined below) shall support a release of all claims against the Released Parties.

If a process to implement the Recapitalization Transaction through the Credit Bid is not agreed to by the Borrower and the First Lien Steering Committee by November 14, 2014, or such later date as may be agreed to by the Borrower and the First Lien Steering Committee, the Consenting First Lien Lenders shall, and do hereby, direct the Agent (without requirement for any further direction or action on the part of the First Lien Lenders to the Agent) to issue a notice under Section 244 of the *Bankruptcy and Insolvency Act* (Canada) to the Borrower, unless otherwise directed by the First Lien Steering Committee.

SUPPORT AGREEMENT AND EARLY CONSENT CONSIDERATION:

Consenting First Lien Lenders ("Consenting First Lien Lenders") who sign a support agreement or a joinder agreement in form reasonably satisfactory to the Borrower and the First Lien Steering Committee (the "First Lien Lender Support Agreement") by the Early Consent Date (the "Early Consenting First Lien Lenders") will receive, in cash, an amount equal to:

(i) their pro rata share of an early cash consent fee of (a) 2% of the aggregate principal amount outstanding under the Existing First Lien Credit Agreement as at July 4, 2014, plus (b) a percentage of the aggregate principal amount outstanding under the Existing First Lien Credit Agreement as at July 4, 2014 calculated based on an annual rate of 10% less the interest rate paid under the Existing First Lien Credit Agreement (including the Default Rate (as defined in the Existing First Lien Credit Agreement)) for the period from July 4, 2014 to September 30, 2014 ((a) and (b) collectively, the **"Initial First Lien Early Consent Fee"**); and (ii) after September 30, 2014, a monthly cash consent fee calculated based on an annual rate of 10% less the interest rate paid under the Existing First Lien Credit Agreement (including the Default Rate) in respect of the outstanding principal amount owing to such Early Consenting First Lien Lenders under the Existing First Lien Credit Agreement (the **"Additional First Lien Early Consent Fee"**, together with the Initial First Lien Early Consent Fee, the **"First Lien Early Consent Consideration"**). The Initial First Lien Early Consent Fee shall be payable to the Early Consenting First Lien Lenders as a fee on September 30, 2014. From and after October 1, 2014, the Additional First Lien Early Consent Fee shall be payable to the Early Consenting First Lien Lenders as a fee on a monthly basis in arrears on the last business day of each month until the termination of the First Lien Lender Support Agreement (each an **"Additional First Lien Early Consent Fee Payment Date"**).

In order to be a Consenting First Lien Lender under the First Lien Lender Support Agreement, such Consenting First Lien Lender will be required to agree to, among other things:

- i. support: (a) the SISP; (b) the Recapitalization Transaction (including the Credit Bid) in respect of any and all of the debt owing to such Consenting First Lien Lender under the Existing First Lien Credit Agreement or under any other credit agreement with the Borrower; (c) the other terms of this First Lien Term Sheet; and (d) if the conditions precedent to the Recapitalization Transaction are not satisfied or waived, an alternative transaction which provides for, among other things, (x) an assumption of all or materially all of the Borrower's trade payables, (y) the employment of all of the Borrower's employees and assumption of all obligations in respect thereof, and (z) such other terms, including net sale proceeds available for distribution to First Lien Lenders, acceptable to the Borrower and the First Lien Steering Committee (an **"Alternative Transaction"**), provided that any Alternative Transaction with net sale proceeds that are not sufficient to provide for the payment in full in cash of all obligations under the Existing First Lien Credit Agreement shall be acceptable

to First Lien Lenders holding at least 66^{2/3}% of the principal amounts outstanding under the Existing First Lien Credit Agreement, in their sole discretion; and

- ii. not support or take any action that is intended or would reasonably be expected to impede, interfere with or delay the SISP, the Recapitalization Transaction (including the Credit Bid), an Alternative Transaction, or any other transactions contemplated by this First Lien Term Sheet.

For avoidance of doubt, First Lien Lenders that do not execute the First Lien Lender Support Agreement prior to 5:00 p.m. on September 25, 2014 (the "**Early Consent Date**") will not receive the First Lien Early Consent Consideration, but will be bound to the terms of the Recapitalization Transaction through the Credit Bid pursuant to the terms of the Existing First Lien Credit Agreement and related loan and security documents.

VII. ADDITIONAL CONDITIONS

BOARD APPROVAL:	The Board of Directors of the Borrower shall have authorized the Recapitalization Transaction.
OTHER CONDITIONS:	Negotiation, execution and delivery of acceptable documentation. Other approvals and conditions as are customary for transactions of this nature.
TREATMENT OF TRADE DEBT:	The Borrower's trade debt shall remain unaffected by the Recapitalization Transaction and shall be paid or satisfied in the ordinary course by the Borrower or Newco, as applicable.
REPAYMENT:	Notwithstanding anything else contained herein, subject to the terms of the First Lien Lender Support Agreement, the Borrower may repay in cash all obligations under the Existing First Lien Credit Agreement at any time prior to the consummation of any transaction.
CONFIDENTIALITY:	Any confidential information to be provided to First Lien Lenders pursuant to this First Lien Term Sheet or the First Lien Lender Support Agreement shall be provided only to Consenting First Lien Lenders who execute the First Lien Lender Support Agreement or a joinder thereto and agree to the confidentiality provisions set out in the First Lien Lender Support Agreement.

SCHEDULE A**SISP**

6362504

SCHEDULE "A" TO THE FIRST LIEN TERM SHEET

Nelson Education Ltd.

Sale and Investment Solicitation Process

Purpose

1. The purpose of the Sale and Investment Solicitation Process ("**SISP**") is to identify one or more purchasers of or investors in the Borrower's business.

Defined Terms

2. All capitalized terms used but not otherwise defined herein have the meanings given to them in the First Lien Term Sheet dated September 10, 2014.

SISP Procedures

3. Alvarez & Marsal Canada Securities ULC, as financial advisor to the Borrower (the "**Financial Advisor**"), with the assistance of the Borrower, the Borrower's advisors (the "**Borrower's Advisors**") and after consultation with the advisors to the First Lien Steering Committee (the "**First Lien Advisors**"), will compile a listing of prospective investors and purchasers (together with others expressing an interest in the business, assets or property of the Borrower, "**Interested Parties**"). The Financial Advisor will make best efforts to contact all parties identified in the list as well as any additional parties identified that could be a potential investor or purchaser.
4. The Financial Advisor, with the assistance of the Borrower and the Borrower's Advisors and in consultation with the First Lien Advisors, will conduct a sale and investment solicitation process whereby Interested Parties will have the opportunity to submit offers to purchase some or all of the Borrower's business or assets (including, without limitation, the K-12 business or Higher Education business, separately or together) or to make an investment in the Borrower.

5. The Financial Advisor will distribute to Interested Parties an interest solicitation letter detailing this opportunity. A form of non-disclosure agreement (“NDA”) will be attached to the interest solicitation letter that Interested Persons will be required to sign in order to gain access to confidential information (each Interested Party who signs an NDA being referred to herein as, a “**Prospective Offeror**”).
6. The Financial Advisor will provide a confidential information memorandum and, if appropriate, limited access to an online data room to Prospective Offerors providing an overview of the Borrower’s business, assets and prospects that may be of interest to prospective buyers or investors. The Financial Advisor may also schedule limited presentations with the Borrower’s management if determined appropriate by the Financial Advisor and the Borrower.
7. A chart summarizing the timeline for the SISP is set out below:

Sale and Investment Solicitation Process	Date
Compile list of Interested Parties and preparation of interest solicitation letter, NDA, and Information Memorandum	Ongoing, by September 23, 2014
Begin Marketing to Interested Parties	By September 23, 2014
Stage 1 Due Diligence (confidential information memorandum, limited data room and select management presentation if determined appropriate by the Financial Advisor and the Borrower)	September 23 to November 7, 2014
Receipt of Non-Binding Letters of Intent	November 7, 2014
Analysis and selection of potential offerors	By November 14, 2014
Stage 2 Due Diligence (management presentation, site visits, data room, facilitate meetings with key stakeholders)	November 7 to December 4, 2014
Receipt of Offers	December 4, 2014
Analysis and clarification of offers and re-submission, if applicable, negotiation and execution of binding agreement	By December 15, 2014
Closing(s)	As soon as practicable following execution and receipt of all regulatory consents

Non-Binding LOIs

8. The Financial Advisor shall seek non-binding letters of intent (each an “LOI”) from Interested Parties in accordance with the timeline above that include:
 - (a) the identity of the offeror;
 - (b) an indication of the proposed investment terms or purchase price for assets;
 - (c) all anticipated regulatory and any other approvals required to close the proposed transaction and the anticipated time frame and any anticipated impediments for obtaining any such approvals;
 - (d) a timeline to closing with critical milestones;
 - (e) such form of financial disclosure and credit-quality support or enhancement that will allow the Financial Advisor, in consultation with the Borrower, the Borrower’s Advisors and the First Lien Advisors, to make a reasonable determination as to the offeror’s financial and other capabilities to consummate the proposed transaction, including, to the extent available, those already identified sources of financing; and
 - (f) such other information reasonably requested by the Financial Advisor, in consultation with the Borrower, the Borrower’s Advisors and the First Lien Advisors.
9. The Financial Advisor and the Borrower, in consultation with the First Lien Advisors, will evaluate the LOIs based on, among other things, the ability of the offeror to complete due diligence, raise financing and conclude a transaction within the timeline set out herein. To the extent that the Financial Advisor and the Borrower, after consultation with the First Lien Advisors, determine to pursue a transaction with any Interested Party that submitted an LOI, the Financial Advisor will provide such Interested Party that is a Prospective Offeror with access to additional information on the business and the assets, including further access to an online data room and an

additional opportunity to meet with senior management of the Borrower, together with the Financial Advisor.

10. If a written offer acceptable to the Borrower and the First Lien Steering Committee is not received by November 7, 2014, or such later date as may be agreed to by the Borrower and the First Lien Steering Committee, which (a) would provide for net sale or investment proceeds sufficient to provide for the payment in full in cash of all obligations under the Existing First Lien Credit Agreement, or (b) is otherwise acceptable to First Lien Lenders holding at least 66 2/3% of the principal amounts outstanding under the Existing First Lien Credit Agreement in their sole discretion, the First Lien Lenders shall credit bid all of the debt owing to them under the Existing First Lien Credit Agreement to effectuate a conversion of the First Lien Lenders' claims for a new first lien term facility and for Newco common shares.

Submissions of Offers

11. The Financial Advisor shall seek offers from Interested Parties in accordance with the timeline herein that:
 - (a) provide the identity of the offeror, evidence of corporate authority and proof of such offeror's financial ability to perform the proposed transaction to the satisfaction of the Financial Advisor and the Borrower;
 - (b) are in the form of a binding offer capable of acceptance, irrevocable for a period of 10 Business Days;
 - (c) are accompanied by a refundable cash deposit in the form of a wire transfer (to a bank account specified by the Financial Advisor) or such other form of deposit as is acceptable to the Financial Advisor, payable to the order of the Financial Advisor, in trust (the "**Deposit**"), in an amount and on terms acceptable to the Financial Advisor;
 - (d) in the case of a proposed purchase of the Borrower's business or assets, includes the following: an acknowledgement and representation that the offeror:

- (a) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its bid; and (b) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in the purchase and sale agreement;
- (e) in the case of an investment in the Borrower's business, includes the following: an acknowledgement and representation that the offeror: (a) has relied solely upon its own independent review, investigation and/or inspection of any documents in making its bid; and (b) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the business of the Borrower or the completeness of any information provided in connection therewith, except as expressly stated in the investment agreement; and
- (f) states any conditions to closing.
12. The Financial Advisor, the Borrower and the Borrower's Advisors, in consultation with the First Lien Advisors, will evaluate the offers based on, among other things, the ability of the offeror to conclude a transaction within the timeline set out herein. The Financial Advisor, in consultation and working with the Borrower, the Borrower's Advisors and First Lien Advisors, may seek clarifications with respect to any offers.

Post-Offer Procedure

13. If one or more offers are received, the Borrower, in consultation with the Financial Advisor and the First Lien Advisors, may choose to:
- (g) subject to paragraph 14 below, accept one (or more if for distinct transactions) offer(s) (the "**Successful Offer**" and the offeror(s) making the

Successful Offer(s) being a "**Successful Offeror**") and take such steps as are necessary to finalize and complete an agreement for the Successful Offer(s) with the Successful Offeror(s); or

- (h) continue negotiations with a selected number of offerors (collectively, "**Selected Offerors**") with a view to finalizing one (or more if for distinct transactions) agreement(s) with one or more Selected Offerors.
14. The Financial Advisor and the Borrower shall be under no obligation to accept the highest or best offer or any offer and the selection of the Selected Offers and the Successful Offer(s) shall, subject to the following sentence, be in the discretion of the Financial Advisor and the Borrower, after consultation with the First Lien Advisors. For greater certainty, the prior written approval of First Lien Lenders holding at least 66 2/3% of the principal amounts outstanding under the Existing First Lien Credit Agreement, in their sole discretion, is required prior to acceptance of any Successful Offer unless it is evident that such Successful Offer shall generate cash proceeds sufficient to repay the First Lien Debt in full.

Other Terms

15. If a Successful Offeror breaches its obligations under the terms of its offer, its Deposit shall be forfeited to the Borrower as liquidated damages and not as a penalty.
16. The setting of dates herein is not intended to preclude the continuation of the SISP with respect to any Interested Parties, or preclude a particular Interested Party from being considered with respect to a transaction. Any of the dates may be amended with the consent of the Borrower and the First Lien Steering Committee, acting reasonably.
17. The Financial Advisor shall, subject to any confidentiality restrictions, provide the First Lien Advisors with copies of all LOIs and offers (including Successful Offers), including any amended versions thereof, along with any summaries of same prepared by the Financial Advisor or the Borrower, forthwith upon receipt.

18. If: (a) a Successful Offer is not received in accordance with these procedures which either: (i) would provide for the payment in full of the First Lien Debt, or (ii) has been approved by First Lien Lenders holding at least 66 2/3% of the principal amounts outstanding under the Existing First Lien Credit Agreement in their sole discretion, or (b) the Borrower does not otherwise repay the First Lien Debt in full prior to consummation of any transaction, the First Lien Lenders shall submit the Credit Bid to effectuate the Recapitalization Transaction.

SCHEDULE B

JOINDER AGREEMENT

Form of Joinder To Support Agreement

This Joinder to the Support Agreement (this "**Joinder Agreement**") is made as of [■], by and among [■] (the "**Joining Consenting First Lien Lender**"), Nelson Education Ltd. and Nelson Education Holdings Ltd. in consideration of the mutual covenants herein contained and benefits to be derived herefrom.

WITNESSETH:

WHEREAS, reference is made to a certain Support Agreement dated as of August [■], 2014 (as amended, modified, supplemented or restated and in effect from time to time, the "**Support Agreement**"), by and among the Companies, the First Lien Agent and the Initial Consenting First Lien Lenders. All capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Support Agreement;

WHEREAS, the Joining Consenting First Lien Lender desires to become a party to, and to be bound by the terms of, the Support Agreement; and

WHEREAS, pursuant to the terms of the Support Agreement, in order for the Joining Consenting First Lien Lender to become party to the Support Agreement, the Joining Consenting First Lien Lender is required to execute this Joinder Agreement;

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Representations and Warranties**

The Joining Consenting First Lien Lender hereby represents and warrants to the Companies that:

- (a) effective as of the date of this Joinder Agreement, the Joining Consenting First Lien Lender (or a client thereof for which it has discretionary authority to manage and administer funds) is the legal or beneficial holder of, or exercises control and discretion over, Loans and Second Lien Loans (if any) in the principal amount set forth on such Joining Consenting First Lien Lender's signature page hereto (inclusive of any Loans acquired as of the date hereof as a Consenting Transferee pursuant to a Transfer permitted by section 4(b)(i) of the Support Agreement) (such Joining Consenting First Lien Lender's "**Relevant Loans**"); and
- (b) effective as of the date hereof, the principal amount of Relevant Loans and Second Lien Loans (if any) set forth on such Joining Consenting First Lien Lender's signature page to this Joinder Agreement constitute all of the Loans and Second Lien Loans (if any) that are legally or beneficially owned by it (or over

which it exercises control or discretion on behalf of clients for which it has discretionary authority to manage or administer funds).

2. Joinder and Assumption of Obligations

Effective as of the date of this Joinder Agreement, the Joining Consenting First Lien Lender hereby acknowledges that the Joining Consenting First Lien Lender has received and reviewed a copy of the Support Agreement, and acknowledges and agrees:

- (a) that all representations and warranties set forth in section 2 of the Support Agreement are true and correct as of the date hereof with respect to the Joining Consenting First Lien Lender;
- (b) to join in the execution of, and become a party to, the Support Agreement as a Joining Consenting First Lien Lender thereunder, as indicated with its signature below;
- (c) subject to section (d) below, to be bound by all agreements of the Consenting First Lien Lenders under the Support Agreement with the same force and effect as if such Joining Consenting First Lien Lender was a signatory to the Support Agreement and was expressly named as a party therein; and
- (d) to assume all rights and interests and perform all applicable duties and obligations of the Consenting First Lien Lenders under the Support Agreement other than those expressed therein to be solely the rights, interests, duties and obligations of the Initial Consenting First Lien Lenders, if any.

3. Binding Effect

Except as specifically amended by this Joinder Agreement, all of the terms and conditions of the Support Agreement shall remain in full force and effect as in effect prior to the date hereof.

4. Miscellaneous

- (a) This Joinder Agreement may be executed by facsimile or other electronic means and in one or more counterparts, all of which shall be considered one and the same agreement.
- (b) This Joinder Agreement constitutes the entire agreement and supersedes all prior agreements and understandings, both oral and written, among the parties with respect to the subject matter hereof.
- (c) If any term, provision, covenant or restriction of this Joinder Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions, including terms, covenants and restrictions, of this Joinder Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated and the parties shall negotiate in good faith to

modify this Joinder Agreement to preserve each party's anticipated benefits under this Joinder Agreement.

- (d) The Joining Consenting First Lien Lender represents and warrants that the Joining Consenting First Lien Lender has consulted with independent legal counsel of its selection in connection with this Joinder Agreement and is not relying on any representations or warranties of any other Consenting First Lien Lender, their respective counsel or the Advisors in entering into this Joinder Agreement.
- (e) This Joinder Agreement is to be governed and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein applicable to contracts made and to be performed in such state, without giving effect to the conflict of laws principles thereof, and all actions or proceedings arising out of or relating to this Joinder Agreement shall be heard and determined exclusively in the courts of the Province of Ontario.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, each of the undersigned has caused this Joinder Agreement to be duly executed and delivered by its proper and duly authorized officer as of the date first written above.

STRICTLY CONFIDENTIAL

Name of Joining Consenting First Lien Lender:

Per:

Name:

Title:

Address:

Name of Consenting First Lien Lender (if applicable):

Per:

Name:

Title:

Address:

Aggregate Principal amount of Loans held by the Consenting First Lien Lender pursuant to the First Lien Credit Agreement	
Aggregate Principal amount of Second Lien Loans held by the Consenting First Lien Lender pursuant to the Second Lien Credit Agreement, if any	

Accepted and agreed to as of the date first above written.

NELSON EDUCATION LTD.

By:

[Name]

[Title]

**NELSON EDUCATION HOLDINGS
LTD.**

By:

[Name]

[Title]

TAB H

Redacted - Exhibit "H" is included in the Confidential Supplement.


TAB I

THIS IS EXHIBIT "I" REFERRED TO IN THE

AFFIDAVIT OF GREG NORDAL

SWORN BEFORE ME

ON THIS 11TH DAY OF MAY, 2015



A COMMISSIONER FOR TAKING AFFIDAVITS

Nelson Education Ltd.

Cash flow forecast for the 5-week period May 11, 2015 to June 12, 2015

(Unaudited, in '000s CAD)

Week Ending, Friday:	Notes	Week 1 5/15/2015 Forecast	Week 2 5/22/2015 Forecast	Week 3 5/29/2015 Forecast	Week 4 6/5/2015 Forecast	Week 5 6/12/2015 Forecast	Total
<u>Receipts</u>							
Sales receipts	2	999	827	746	1,545	1,839	5,956
Other receipts	2	-	-	150	-	-	150
Total Receipts		999	827	896	1,545	1,839	6,106
<u>Disbursements</u>							
Operating expenses	3	247	755	233	191	231	1,657
Payroll & benefits	4	1,504	5	1,304	5	1,501	4,319
KERP	5	-	-	-	-	-	-
Other expenses	6	167	486	298	337	236	1,524
Capital expenditures and plate spend	7	263	143	354	219	199	1,178
Professional fees	8	225	125	280	835	25	1,490
Financing charges	9	-	-	820	-	-	820
Total Disbursements		2,406	1,515	3,288	1,587	2,192	10,987
Net Operating Cash Flow		(1,407)	(688)	(2,392)	(41)	(352)	(4,881)
Beginning Cash Balance	1	21,200	19,793	19,105	16,713	16,671	21,200
Net Cash Flow		(1,407)	(688)	(2,392)	(41)	(352)	(4,881)
Ending Cash Balance		19,793	19,105	16,713	16,671	16,319	16,319

To be read in conjunction with the attached Notes and Summary of Assumptions.

Nelson Education Ltd.
Cash Flow Forecast
Notes and Summary of Assumptions

In the Matter of the CCAA Proceedings of Nelson Education Ltd. ("Nelson Education") and Nelson Education Holdings Ltd. ("Holdings", together with Nelson Education, the "Company").

Disclaimer

In preparing this cash flow forecast (the "Forecast"), the Company has relied upon unaudited financial information and has not attempted to further verify the accuracy or completeness of such information. The Forecast includes assumptions discussed below with respect to the requirements and impact of a filing under the Companies' Creditors Arrangement Act ("CCAA"). Since the Forecast is based on assumptions about future events and conditions that are not ascertainable, the actual results achieved during the Forecast period will vary from the Forecast, even if the assumptions materialize, and such variations may be material. There is no representation, warranty or other assurance that any of the estimates, forecasts or projections will be realized.

Overview:

The Forecast assumes that payments in respect of employee compensation, utility services, suppliers, content providers and other normal business obligations will be paid in the ordinary course. The Company, with the assistance of the Monitor, has prepared the Forecast based primarily on historical results and Management's current expectations. The Forecast is presented in thousands of Canadian dollars.

Assumptions

1) **Opening Position**

The estimated opening cash balance as at May 11, 2015.

2) **Receipts**

Receipts from sales are estimated based on current accounts receivable collections and Management's current sales forecast for both the Higher Education ("HE") and Kindergarten to Grade 12 ("K-12") businesses. Sales taxes are included in forecast receipts. Other receipts include monthly reimbursements from Cengage Learning USA ("Cengage") for certain expenses Nelson incurs on Cengage's behalf.

3) **Operating Expenses**

Operating expenses include Paper, Print, and Binding ("PP&B") costs which are forecast based on current accounts payable and Management's current cost of sales forecast for both the HE and K-12 businesses.

Operating expenses also include royalty payments to authors for Indigenous content originally created/published by Nelson and royalty payments to Cengage or other affiliated companies in the U.S. for agency products (i.e. products originally created/published by third parties).

4) **Payroll & benefits**

Disbursements include payroll, payroll taxes and employee benefits for salaried and hourly employees, and are forecast based on historical run-rates. All employees are paid a salary and are entitled to participate in the Company's benefit program, defined contribution pension plan and incentive plan. All employees are paid bi-weekly, two weeks in arrears. The Company offers all of its employees comprehensive medical and dental benefits through Sun Life Financial.

5) **Key Employee Retention Program**

Nelson Education entered in to a Key Employee Retention Program ("KERP") agreement with certain employees in 2014. The final payment of approximately \$340,000 to certain employees is expected to be paid in July 2015.

6) **Other expenses**

These disbursements include insurance, facility costs, sales tax remittance, service agreements with Cengage, selling, general and administrative expenses, marketing expenses, travel and entertainment and other ongoing operating expenses.

7) **Capital Expenditures and Plate Spend**

Capital expenditures are based on expected license renewals and hardware upgrades for laptops, cell phones and network equipment. In addition, ongoing capital expenditures includes maintenance costs required for Nelson's facility, warehouse equipment and general infrastructure.

Plate spend comprises a significant capital outlay for the development of new content and material that generates revenue for a number of future fiscal periods. The cost of plate spend is based on the accumulation of costs, either external invoices paid to third-party vendors, or for internal labour and associated costs, as an allocation of time spent on a project based on actual hours incurred. Plate spend is tracked at the ISBN level (title by title). For cash flow purposes only cash paid to third-party vendors is captured above. Internal labour costs are forecast in the payroll and benefits line item.

8) **Professional Fees**

These disbursements include payments to Nelson's financial advisors and legal counsel, the Monitor and its legal counsel, the First Lien Agent, the Supplemental Agent and the financial advisor and legal counsel to the First Lien Agent, the Supplemental Agent and the First Lien Steering Committee.

9) **Financing Charges**

Consent Fee:

As per the Support Agreement entered into between the consenting First Lien Lenders and Nelson Education on September 30, 2014, Nelson paid an Early Consent Fee to the consenting First Lien Lenders equal to such lenders' pro rata share of (i) 2% of the aggregate principal amount outstanding; plus (ii) a percentage of the aggregate principal amount outstanding calculated based on an annual rate of 10%, less the interest rate paid under the existing First Lien Credit Agreement for the period of July 4, 2014 to September 30, 2014.

Thereafter, on a monthly basis until termination of the Support Agreement, Nelson pays a monthly cash consent fee to the consenting First Lien Lenders calculated as a percentage of the aggregate principal amount outstanding, using an annual rate of 10% less the interest rate paid under the existing First Lien Credit Agreement.

Interest Expense:

Under its First Lien Credit Agreement, Nelson pays interest quarterly at a rate of Base Rate (3.25%) + 1.5% on First Lien debt plus an additional 2% default rate since July 4, 2014.

Court File No. _____

ONTARIO SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF NELSON EDUCATION LTD. AND
NELSON EDUCATION HOLDINGS LTD.

Applicants

MANAGEMENT'S REPORT ON CASH FLOW STATEMENT
(paragraph 10(2)(b) of the CCAA)

The management of Nelson Education Ltd. and Nelson Education Holdings Ltd. (together, the "**Applicants**") have developed the assumptions and prepared the attached statement of projected cash flow as of the 11th day of May, 2015 for the period May 11, 2015 to June 12, 2015 (the "**Cash Flow**").

The hypothetical assumptions are reasonable and consistent with the purpose of the projections described in the Notes to the Cash Flow, and the probable assumptions are suitably supported and consistent with the plans of the Applicants and provide a reasonable basis for the projections. All such assumptions are disclosed in Notes 1 to 9.

Since the projections are based on assumptions regarding future events, actual results will vary from the information presented, and the variations may be material.

The projections have been prepared solely for the purpose described in the Notes, using the probable and hypothetical assumptions set out in Notes 1 to 9. Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at Toronto this 11th day of May, 2015.



6444308

Name: Mike Andrews

Title: Chief Financial Officer

TAB J

Redacted - Exhibit "J" is included in the Confidential Supplement.

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

Court File No: _____

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
NELSON EDUCATION LTD. AND NELSON EDUCATION HOLDINGS LTD.

Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE-
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF GREG NORDAL
(sworn May 11, 2015)**

GOODMANS LLP

Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

Robert J. Chadwick LSUC#: 35165K
rchadwick@goodmans.ca
Caroline Descours LSUC#: 58251A
cdescours@goodmans.ca
Tel: (416) 979-2211
Fax: (416) 979-1234

Lawyers for the Applicants

TAB 3

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE**

COMMERCIAL LIST

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF NELSON EDUCATION LTD. AND
NELSON EDUCATION HOLDINGS LTD.**

Applicants

CONSENT

Alvarez & Marsal Canada Inc. ("A&M") hereby consents to act as Court-appointed monitor of Nelson Education Ltd. and Nelson Education Holdings Ltd. in respect of these proceedings.

Dated: May 11, 2015

ALVAREZ & MARSAL CANADA INC.

Per: _____



Name: Alan J. Hutchens

Title: Senior Vice President

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

Court File No: _____

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF C
NELSON EDUCATION LTD. AND NELSON EDUCATION HOLDINGS LTD.

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE-
COMMERCIAL LIST

Proceeding commenced at Toronto

CONSENT OF THE MONITOR

GOODMANS LLP
Barristers & Solicitors
333 Bay Street, Suite 3400
Toronto, Canada M5H 2S7

Robert J. Chadwick LSUC#: 35165K
rchadwick@goodmans.ca
Caroline Descours LSUC#: 58251A
cdescours@goodmans.ca
Tel: (416) 979-2211
Fax: (416) 979-1234

Lawyers for the Applicants

TAB 4

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE REGIONAL)	TUESDAY, THE 12 TH
)	
SENIOR JUSTICE MORAWETZ)	DAY OF MAY, 2015

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF NELSON EDUCATION LTD.
AND NELSON EDUCATION HOLDINGS LTD.**

Applicants

INITIAL ORDER

THIS APPLICATION, made by Nelson Education Ltd. ("**Nelson Education**") and Nelson Education Holdings Ltd. ("**Holdings**", together with Nelson Education, the "**Applicants**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Greg Nordal sworn May 11, 2015 and the Exhibits thereto (the "**Nordal Affidavit**") and the Pre-filing Report of the Proposed Monitor, Alvarez & Marsal Canada Inc. ("**A&M**"), and on being advised that the First Lien Agent, the First Lien Steering Committee and the Second Lien Agent (each as defined in the Nordal Affidavit) were given notice of this Application, and on hearing the submissions of counsel for the Applicants, A&M, the First Lien Steering Committee and the First Lien Agent, and the Second Lien Agent, and on reading the consent of A&M to act as the Court-appointed monitor (the "**Monitor**"),

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

CAPITALIZED TERMS

2. THIS COURT ORDERS that, unless otherwise indicated or defined herein, capitalized terms have the meaning given to them in the Nordan Affidavit.

APPLICATION

3. THIS COURT ORDERS AND DECLARES that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

4. THIS COURT ORDERS that the Applicants, or any one of them, shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**").

POSSESSION OF PROPERTY AND OPERATIONS

5. THIS COURT ORDERS that the Applicants shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court and the terms of the Supplemental Support Agreement among Nelson Education, Holdings, the First Lien Agent, the Supplemental Agent and the Consenting First Lien Lenders dated May 11, 2015 (the "**Supplemental Support Agreement**"), the Applicants shall each continue to carry on business in the ordinary course and in a manner consistent with the preservation of their business (the "**Business**") and the Property. Subject to the terms of the Supplemental Support Agreement, the Applicants shall each be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or

employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. THIS COURT ORDERS that the Applicants shall be entitled to continue to utilize the central cash management system currently in place, including the Applicants' current business forms, cheques and bank accounts, as described in the Nordal Affidavit or replace it with another substantially similar central cash management system (the "**Cash Management System**") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. THIS COURT ORDERS that, subject to the terms of the Supplemental Support Agreement, the Applicants shall be entitled but not required to pay the following expenses and satisfy the following obligations whether incurred prior to, on or after the making of this Order:

- (a) all outstanding and future wages, salaries, bonuses, incentive payments, employee and pension benefits, vacation pay, expenses, and termination and severance obligations payable on or after the date of this Order to current employees, in each case incurred in the ordinary course of business and consistent with existing compensation policies or arrangements, or as agreed to by the Applicants and the Majority Initial Consenting First Lien Lenders;
- (b) all outstanding and future amounts owing to or in respect of individuals working as independent contractors in connection with the Business in respect of services provided to the Business and expenses payable in respect thereof, in each case in

the ordinary course of business and consistent with existing policies and arrangements;

- (c) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings or in respect of related corporate matters, at their standard rates and charges, including the fees and disbursements of legal counsel and financial advisors retained by the Applicants;
- (d) the reasonable fees and disbursements of the directors of the Applicants;
- (e) the fees and disbursements of counsel to the directors at their standard rates and charges up to an amount agreed to by the Applicants and the Majority Initial Consenting First Lien Lenders;
- (f) all amounts owing for goods and services actually supplied and content provided to the Applicants, or to obtain the release of goods contracted for prior to the date of this Order, in each case in the ordinary course of business;
- (g) all amounts owing in respect of the Applicants' customer programs including rebates, refunds, returns, warranties and similar programs or obligations, in each case incurred in the ordinary course of business (the "**Customer Programs**"); and
- (h) such other amounts to such other Persons as agreed to by the Applicants and the Majority Initial Consenting First Lien Lenders.

8. THIS COURT ORDERS that, except as otherwise provided to the contrary herein and subject to the terms of the Supplemental Support Agreement, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance, any reasonable

renewals or substitutions thereof and run off coverage in respect thereto), maintenance and security services;

- (b) payment for goods or services actually supplied and content provided to the Applicants following the date of this Order in the ordinary course of business and consistent with past practice; and
- (c) payments and credits in respect of the Customer Programs in the ordinary course of business and consistent with past practice.

9. THIS COURT ORDERS that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

10. THIS COURT ORDERS that, except as specifically permitted herein, the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date, except in respect of (i) interest, costs, indemnities, expenses and fees, including consent fees, payable to the First Lien Lenders under the First Lien Credit Agreement and the Support Agreement, and (ii) fees, expenses and indemnities payable to the First Lien Agent under the First Lien Credit Agreement and the Support Agreement and to the Supplemental Agent under the Supplemental Administrative Agent Agreement dated as of May 11, 2015 by and between the First Lien Agent and the Supplemental Agent; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. THIS COURT ORDERS that the Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Supplemental Support Agreement, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding \$500,000 in any one transaction or \$1,000,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate and deal with any claims arising from such termination in the Plan or otherwise;
- (c) disclaim, in whole or in part, such of their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA, and deal with any claims arising from such disclaimer in the Plan or otherwise; and
- (d) pursue all avenues of refinancing and offers for their Business or the Property, in whole or part, subject to prior approval of this Court being obtained before any

material refinancing or any sale (except as permitted by subparagraph (a) above),

all of the foregoing to permit the Applicants to proceed with an orderly restructuring or sale of the Business.

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

12. THIS COURT ORDERS that until and including June 10, 2015, or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

13. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being “**Persons**” and each being a “**Person**”) against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

14. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right,

contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

15. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with an Applicant or statutory or regulatory mandates for the supply of goods, content and/or services, including without limitation all computer software, communication and other data services, licenses, distribution, printing, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or an Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods, content or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods, content or services received after the date of this Order are paid by the Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier, content provider or service provider and each of the applicable Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

16. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

KEY EMPLOYEE RETENTION PROGRAM

17. THIS COURT ORDERS that the key employee retention program (the “**KERP**”) as described in the Nordal Affidavit relating to key employees, including certain key officers (collectively, the “**Key Employees**”) is hereby approved.

18. THIS COURT ORDERS that the Applicants (and any other person that may be appointed to act on behalf of the Applicants, including without limitation, any trustee, liquidator, receiver, interim receiver, receiver and manager or other person acting on behalf of any such person) are authorized and directed to perform the obligations under the KERP, including making all payments to the Key Employees of amounts due and owing under the KERP at the time specified and in accordance with the terms of the KERP.

19. THIS COURT ORDERS that the Applicants are hereby authorized to execute and deliver such additional documents as may be necessary to give effect to the KERP.

20. THIS COURT ORDERS that the Key Employees shall be entitled to the benefit of and are hereby granted a charge (the “KERP Charge”) on the Property, which charge shall not exceed an aggregate amount of \$340,000, as security for the obligations of the Applicants to the Key Employees under the KERP. The KERP Charge shall have the priority set out in paragraph 34 and 36 herein.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

22. THIS COURT ORDERS that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

23. THIS COURT ORDERS that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the “**Directors’ Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$2.2 million, as security for the indemnity provided in paragraph 22 of this Order. The Directors’ Charge shall have the priority set out in paragraphs 34 and 36 herein.

24. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors’ Charge, and (b) the Applicants’ directors and officers shall only be entitled to the benefit of the Directors’ Charge to the extent that they do not have coverage under any directors’ and officers’ insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 22 of this Order.

APPOINTMENT OF MONITOR

25. THIS COURT ORDERS that A&M is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA or set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor’s functions.

26. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants’ receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination to the First Lien Agent and/or the Consenting First Lien Lenders and their counsel and financial advisors of financial and other information as agreed to between the Applicants, the First Lien Agent and the Majority Initial Consenting First Lien Lenders, as applicable;
- (d) advise the Applicants in their preparation of their cash flow statements, which information shall be reviewed with the Monitor, as required from time to time, which may be used in these proceedings;
- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

27. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

28. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Applicants with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

30. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

31. THIS COURT ORDERS that the Monitor, counsel to the Monitor, Canadian and U.S. counsel to the Applicants (the “**Applicants’ Counsel**”), the First Lien Agent, the Supplemental Agent, and Canadian and U.S. counsel to the First Lien Steering Committee, the First Lien Agent and the Supplemental Agent (collectively, the “**First Lien Counsel**”) shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements), in each case at their standard rates and charges, and the financial advisor of the First Lien Steering Committee (the “**First Lien Financial Advisor**”) shall be paid its fees and disbursements (including any pre-filing fees and disbursements) pursuant to its engagement letter with Nelson Education dated June 24, 2013 (the “**FA Engagement Letter**”), by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, the Applicants’ Counsel, and the First Lien Counsel on a monthly basis and the First Lien Financial Advisor pursuant to the FA Engagement Letter, or such other basis as otherwise agreed by the Applicants and the applicable payee.

32. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

33. THIS COURT ORDERS that the Monitor, counsel to the Monitor, the Applicants’ Counsel, the First Lien Agent, the Supplemental Agent, the First Lien Counsel and the First Lien Financial Advisor shall be entitled to the benefit of and are hereby granted a charge (the “**Administration Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$1 million, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor, counsel to the Monitor, the Applicants’ Counsel and the First Lien Counsel and, in the case of the First Lien Financial Advisor, pursuant to the FA Engagement Letter, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 34 and 36 hereof.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

34. THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge and the KERP Charge, as among them, shall be as follows, subject to paragraph 36 of this Order:

First – Administration Charge (to the maximum amount of \$1 million);

Second – Directors' Charge (to the maximum amount of \$2.2 million); and

Third – KERP Charge (to the maximum amount of \$340,000).

35. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge or the KERP Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

36. THIS COURT ORDERS that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, notwithstanding the order of perfection or attachment, except for any validly perfected security interest in favour of a "secured creditor" as defined in the CCAA existing as at the date hereof other than any validly perfected security interest in favour of the First Lien Agent, the Second Lien Agent, the First Lien Lenders or the Second Lien Lenders. Nothing in this Order affects the priority of the First Lien Agent, the Second Lien Agent, the First Lien Lenders and the Second Lien Lenders against the rights of each other and third parties (other than beneficiaries of the Charges) as of the date of this Order.

37. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants

also obtain the prior written consent of the Monitor and the beneficiaries of the applicable Charges affected thereby, or further Order of this Court.

38. THIS COURT ORDERS that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds the Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection registration or performance of any documents in respect thereof or the Supplemental Support Agreement shall create or be deemed to constitute a breach by an Applicant of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges or the Supplemental Support Agreement; and
- (c) the payments made by the Applicants pursuant to this Order and the granting of the Charges do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

39. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants’ interest in such real property leases.

SEALING ORDER

40. THIS COURT ORDERS that each of (i) the summary of the KERP attached as Exhibit J to the Nordal Affidavit, and (ii) the Stockholders and Registration Rights Agreement attached as Exhibit H to the Nordal Affidavit be sealed, kept confidential and not form part of the public record, but rather shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of this Court.

SERVICE AND NOTICE

41. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the Globe and Mail a notice containing the information prescribed under the CCAA, and (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$10,000, and (C) prepare a list showing the names and addresses of those creditors, save and except creditors who are individuals, and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the claims, names and addresses of individuals who are creditors publicly available.

42. THIS COURT ORDERS that the E-Service Guide of the Commercial List (the “Guide”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Guide (which can be found on the Commercial List website at: www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 13 of the Guide, service of documents in accordance with the Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Guide with the following URL: <http://www.alvarezandmarsal.com/nelson>.

43. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Guide is not practicable, the Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or distribution by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

44. THIS COURT ORDERS that, except with respect to any motion to be heard on the Comeback Date (as defined below), or an urgent motion subject to further Order of this Court, any interested party that wishes to object to the relief to be sought in a motion brought in these proceedings shall, subject to further Order of this Court, provide the Service List with responding motion materials or a written notice (including by e-mail) stating its objection to the motion no later than three (3) business days prior to the date such motion is returnable (the "**Objection Deadline**"). The Monitor shall have the right to extend the Objection Deadline after consulting with the Applicants.

45. THIS COURT ORDERS that following the expiry of the Objection Deadline, the Monitor or counsel to the Applicants shall inform the Court, including by way of a 9:30 a.m. appointment, of the absence or the status of any objections to the motion and the judge having carriage of the motion may determine (a) whether a hearing in respect of the motion is necessary, (b) whether such hearing will be in person, by telephone or by written submissions only and (c) the parties from whom submissions are required. In the absence of any such determination, a hearing will be held in the ordinary course on the date specified in the notice of motion.

GENERAL

46. THIS COURT ORDERS that each of the Applicants and the Monitor may from time to time apply to this Court to amend, vary, supplement or replace this Order or for advice and

directions concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

47. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

48. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

49. THIS COURT ORDERS that each of the Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

50. THIS COURT ORDERS that any interested party (other than the Applicants or the Monitor) that wishes to amend or vary this Order shall be entitled to appear or bring a motion before this Court on a date to be set by this Court upon the granting of this Order (the "**Comeback Date**"), and any such interested party shall give notice to the Service List and any other party or parties likely to be affected by the Order sought in advance of the Comeback Date.

51. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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

Court File No: 587

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
NELSON EDUCATION LTD. AND NELSON EDUCATION HOLDINGS LTD.

Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE-
COMMERCIAL LIST**

Proceeding commenced at Toronto

INITIAL ORDER

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Lawyers for the Applicants

TAB 5

Revised: January 21, 2014

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE ~~_____~~REGIONAL) ~~WEEKDAY~~TUESDAY, THE #12TH
)
SENIOR JUSTICE ~~_____~~MORAWETZ) DAY OF MONTHMAY, ~~20YR~~2015

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE
OR ARRANGEMENT OF ~~[APPLICANT'S NAME]~~ (the
"Applicant")NELSON EDUCATION LTD. AND NELSON
EDUCATION HOLDINGS LTD.**

Applicants

INITIAL ORDER

THIS APPLICATION, made by ~~the Applicant~~Nelson Education Ltd. ("Nelson Education") and Nelson Education Holdings Ltd. ("Holdings", together with Nelson Education, the "Applicants"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of ~~[NAME]~~Greg Nordal sworn ~~[DATE]~~May 11, 2015 and the Exhibits thereto (the "Nordal Affidavit") and the Pre-filing Report of the Proposed Monitor, Alvarez & Marsal Canada Inc. ("A&M"), and on being advised that the ~~secured creditors who are likely to be affected by the charges created herein were given notice~~First Lien Agent, the First Lien Steering Committee and the Second Lien Agent (each as defined in the Nordal Affidavit) were given notice of this Application, and on hearing the submissions of

counsel for [NAMES], ~~no one appearing for [NAME]¹ although duly served as appears from the affidavit of service of [NAME] sworn [DATE]~~ the Applicants, A&M, the First Lien Steering Committee and the First Lien Agent, and the Second Lien Agent, and on reading the consent of [MONITOR'S NAME] A&M to act as the Court-appointed monitor (the "Monitor"),

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated² so that this Application is properly returnable today and hereby dispenses with further service thereof.

CAPITALIZED TERMS

2. THIS COURT ORDERS that, unless otherwise indicated or defined herein, capitalized terms have the meaning given to them in the Nordal Affidavit.

APPLICATION

3. ~~2-~~ THIS COURT ORDERS AND DECLARES that the ~~Applicant is a company~~ Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

4. ~~3-~~ THIS COURT ORDERS that the ~~Applicant~~ Applicants, or any one of them, shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

5. ~~4-~~ THIS COURT ORDERS that the ~~Applicant~~ Applicants shall remain in possession and control of ~~its~~ their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the

¹ ~~Include names of secured creditors or other persons who must be served before certain relief in this model Order may be granted. See, for example, CCAA Sections 11.2(1), 11.3(1), 11.4(1), 11.51(1), 11.52(1), 32(1), 32(3), 33(2) and 36(2).~~

² ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~

~~"Property"~~). Subject to further Order of this Court, ~~the Applicant shall~~ and the terms of the Supplemental Support Agreement among Nelson Education, Holdings, the First Lien Agent, the Supplemental Agent and the Consenting First Lien Lenders dated May 11, 2015 (the "Supplemental Support Agreement"), the Applicants shall each continue to carry on business in the ordinary course and in a manner consistent with the preservation of its~~their~~ business (the ~~"Business"~~) and the Property. ~~The Applicant is~~ Subject to the terms of the Supplemental Support Agreement, the Applicants shall each be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively ~~"Assistants"~~) currently retained or employed by ~~it~~them, with liberty to retain such further Assistants as ~~it deems~~they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

~~5.~~ 6. ~~[THIS COURT ORDERS that the Applicant~~ Applicants shall be entitled to continue to utilize the central cash management system³ currently in place, including the Applicants' current business forms, cheques and bank accounts, as described in the Nortal Affidavit of [NAME] sworn [DATE] or replace it with another substantially similar central cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the ApplicantApplicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the ApplicantApplicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.]

~~6.~~ 7. ~~THIS COURT ORDERS that the Applicant, subject to the terms of the Supplemental Support Agreement, the Applicant~~ Applicants shall be entitled but not required to pay the following

³ ~~This provision should only be utilized where necessary, in view of the fact that central cash management systems often operate in a manner that consolidates the cash of applicant companies. Specific attention should be paid to cross border and inter company transfers of cash.~~

expenses and satisfy the following obligations whether incurred prior to, on or after the making of this Order:

- (a) all outstanding and future wages, salaries, bonuses, incentive payments, employee and pension benefits, vacation pay ~~and~~ expenses, and termination and severance obligations payable on or after the date of this Order to current employees, in each case incurred in the ordinary course of business and consistent with existing compensation policies ~~and/or~~ arrangements, or as agreed to by the Applicants and the Majority Initial Consenting First Lien Lenders; and
- (b) all outstanding and future amounts owing to or in respect of individuals working as independent contractors in connection with the Business in respect of services provided to the Business and expenses payable in respect thereof, in each case in the ordinary course of business and consistent with existing policies and arrangements;
- (c) ~~(b)~~ the fees and disbursements of any Assistants retained or employed by the ApplicantApplicants in respect of these proceedings or in respect of related corporate matters, at their standard rates and charges, including the fees and disbursements of legal counsel and financial advisors retained by the Applicants;
- (d) the reasonable fees and disbursements of the directors of the Applicants;
- (e) the fees and disbursements of counsel to the directors at their standard rates and charges up to an amount agreed to by the Applicants and the Majority Initial Consenting First Lien Lenders;
- (f) all amounts owing for goods and services actually supplied and content provided to the Applicants, or to obtain the release of goods contracted for prior to the date of this Order, in each case in the ordinary course of business;
- (g) all amounts owing in respect of the Applicants' customer programs including rebates, refunds, returns, warranties and similar programs or obligations, in each

case incurred in the ordinary course of business (the “Customer Programs”);
and

(h) such other amounts to such other Persons as agreed to by the Applicants and the
Majority Initial Consenting First Lien Lenders.

8. ~~7.~~ THIS COURT ORDERS that, except as otherwise provided to the contrary herein,
~~the Applicant~~ and subject to the terms of the Supplemental Support Agreement, the Applicants
 shall be entitled but not required to pay all reasonable expenses incurred by the
~~Applicant~~ Applicants in carrying on the Business in the ordinary course after this Order, and in
 carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of
 the Property or the Business including, without limitation, payments on account
 of insurance (including directors and officers insurance, any reasonable renewals
or substitutions thereof and run off coverage in respect thereto), maintenance
 and security services; ~~and~~
- (b) payment for goods or services actually supplied and content provided to the
~~Applicant~~ Applicants following the date of this Order in the ordinary course of
business and consistent with past practice; and
- (c) payments and credits in respect of the Customer Programs in the ordinary course of
business and consistent with past practice.

9. ~~8.~~ THIS COURT ORDERS that the ~~Applicant~~ Applicants shall remit, in accordance with
 legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of
 any Province thereof or any other taxation authority which are required to be
 deducted from employees' wages, including, without limitation, amounts in
 respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec
 Pension Plan, and (iv) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "~~“Sales Taxes”~~") required to be remitted by the ~~Applicant~~Applicants in connection with the sale of goods and services by the ~~Applicant~~Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order;⁴ and

(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the ~~Applicant~~.

9. ~~THIS COURT ORDERS that until a real property lease is disclaimed [or resiliated]⁴ in accordance with the CCAA, the Applicant shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicant and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid~~Applicants.

10. THIS COURT ORDERS that, except as specifically permitted herein, the ~~Applicant~~is Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the ~~Applicant~~Applicants to any of ~~its~~their creditors as of this date, except in respect of (i) interest, costs, indemnities, expenses and fees, including consent fees, payable to the First Lien Lenders under the First Lien Credit Agreement and the Support Agreement, and (ii) fees, expenses and indemnities payable to the First Lien Agent under the First Lien Credit Agreement and the

⁴ The term "resiliate" should remain if there are leased premises in the Province of Quebec, but can otherwise be removed.

Support Agreement and to the Supplemental Agent under the Supplemental Administrative Agent Agreement dated as of May 11, 2015 by and between the First Lien Agent and the Supplemental Agent; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of ~~its~~the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

11. THIS COURT ORDERS that the ~~Applicant~~Applicants shall, subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the ~~Definitive Documents (as hereinafter defined)~~Supplemental Support Agreement, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of ~~its~~their business or operations, ~~and~~ to dispose of redundant or non-material assets not exceeding \$~~500,000~~1,000,000 in any one transaction or \$~~1,000,000~~5;
- (b) ~~terminate~~ the employment of such of ~~its~~their employees or temporarily lay off such of ~~its~~their employees as ~~it deems~~they deem appropriate ~~and deal with any claims arising from such termination in the Plan or otherwise;~~
- (c) disclaim, in whole or in part, such of their arrangements or agreements of any nature whatsoever with whomsoever, whether oral or written, as the Applicants deem appropriate, in accordance with section 32 of the CCAA, and deal with any claims arising from such disclaimer in the Plan or otherwise; and
- (d) ~~(e)~~pursue all avenues of refinancing of its~~and offers for their~~ Business or the Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing or any sale (except as permitted by subparagraph (a) above).

⁵ Section 36 of the amended CCAA does not seem to contemplate a pre-approved power to sell (see subsection 36(3)) and moreover requires notice (subsection 36(2)) and evidence (subsection 36(7)) that may not have occurred or be available at the initial CCAA hearing.

all of the foregoing to permit the ~~Applicant~~Applicants to proceed with an orderly restructuring or sale of the Business ~~(the "Restructuring")~~.

12. ~~THIS COURT ORDERS that the Applicant shall provide each of the relevant landlords with notice of the Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicant, or by further Order of this Court upon application by the Applicant on at least two (2) days notice to such landlord and any such secured creditors. If the Applicant disclaims [or resiliates] the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer [or resiliation] of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.~~

13. ~~THIS COURT ORDERS that if a notice of disclaimer [or resiliation] is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer [or resiliation], the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer [or resiliation], the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.~~

NO PROCEEDINGS AGAINST THE ~~APPLICANT~~APPLICANTS OR THE PROPERTY

12. ~~14.~~ THIS COURT ORDERS that until and including ~~{DATE—MAX. 30 DAYS}~~, June 10, 2015, or such later date as this Court may order (the "Stay Period"), no proceeding or

enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the ~~Applicant~~Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the ~~Applicant~~Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the ~~Applicant~~Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

13. ~~15.~~ THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the ~~Applicant~~Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the ~~Applicant~~Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the ~~Applicant~~Applicants to carry on any business which the ~~Applicant is~~Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

14. ~~16.~~ THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the ~~Applicant~~Applicants, except with the written consent of the ~~Applicant~~Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

15. ~~17.~~ THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with ~~the an~~ Applicant or statutory or regulatory mandates for the supply of goods, content and/or services, including without limitation all computer software, communication and other data services, licenses, distribution, printing, centralized banking

services, payroll services, insurance, transportation services, utility or other services to the Business or ~~the an~~ Applicant, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods, content or services as may be required by the ~~Applicant~~ Applicants, and that the ~~Applicant~~ Applicants shall be entitled to the continued use of ~~its~~ their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods, content or services received after the date of this Order are paid by the ~~Applicant~~ Applicants in accordance with normal payment practices of the ~~Applicant~~ Applicants or such other practices as may be agreed upon by the supplier, content provider or service provider and each of the ~~Applicant~~ applicable Applicants and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

16. ~~18.~~ THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the ~~Applicant~~ Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.⁶

KEY EMPLOYEE RETENTION PROGRAM

17. THIS COURT ORDERS that the key employee retention program (the “KERP”) as described in the Nordal Affidavit relating to key employees, including certain key officers (collectively, the “Key Employees”) is hereby approved.

18. THIS COURT ORDERS that the Applicants (and any other person that may be appointed to act on behalf of the Applicants, including without limitation, any trustee, liquidator, receiver, interim receiver, receiver and manager or other person acting on behalf of any such person) are authorized and directed to perform the obligations under the KERP.

⁶ This non-derogation provision has acquired more significance due to the recent amendments to the CCAA, since a number of actions or steps cannot be stayed, or the stay is subject to certain limits and restrictions. See, for example, CCAA Sections 11.01, 11.04, 11.06, 11.07, 11.08, 11.1(2) and 11.5(1).

including making all payments to the Key Employees of amounts due and owing under the KERP at the time specified and in accordance with the terms of the KERP.

19. THIS COURT ORDERS that the Applicants are hereby authorized to execute and deliver such additional documents as may be necessary to give effect to the KERP.

20. THIS COURT ORDERS that the Key Employees shall be entitled to the benefit of and are hereby granted a charge (the “KERP Charge”) on the Property, which charge shall not exceed an aggregate amount of \$340,000, as security for the obligations of the Applicants to the Key Employees under the KERP. The KERP Charge shall have the priority set out in paragraph 34 and 36 herein.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

21. 19-THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the ~~Applicant~~Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the ~~Applicant~~Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the ~~Applicant~~Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the ~~Applicant~~Applicants or this Court.

DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE

22. 20-THIS COURT ORDERS that the ~~Applicant~~Applicants shall indemnify ~~its~~their directors and officers against obligations and liabilities that they may incur as directors or officers of the ~~Applicant~~Applicants after the commencement of the within proceedings,⁷ except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director’s or officer’s gross negligence or wilful misconduct.

⁷The broad indemnity language from Section 11.51 of the CCAA has been imported into this paragraph. The granting of the indemnity (whether or not secured by a Directors’ Charge), and the scope of the indemnity, are discretionary matters that should be addressed with the Court.

23. ~~21.~~ THIS COURT ORDERS that the directors and officers of the ~~Applicant~~Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge")⁸ on the Property, which charge shall not exceed an aggregate amount of \$~~2.2 million~~, as security for the indemnity provided in paragraph ~~120~~22 of this Order. The Directors' Charge shall have the priority set out in paragraphs ~~38~~34 and ~~40~~36 herein.

24. ~~22.~~ THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the ~~Applicant's~~Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph ~~120~~22 of this Order.

APPOINTMENT OF MONITOR

25. ~~23.~~ THIS COURT ORDERS that ~~[MONITOR'S NAME]~~A&M is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the ~~Applicant~~Applicants with the powers and obligations set out in the CCAA or set forth herein and that the ~~Applicant~~Applicants and ~~its~~their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the ~~Applicant~~Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

26. ~~24.~~ THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the ~~Applicant's~~Applicants' receipts and disbursements;

⁸ Section 11.51(3) provides that the Court may not make this security/charging order if in the Court's opinion the ~~Applicant~~ could obtain adequate indemnification insurance for the director or officer at a reasonable cost.

- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the ~~Applicant~~Applicants, to the extent required by the ~~Applicant~~Applicants, in ~~its~~their dissemination, ~~to the DIP Lender and its counsel on a [TIME INTERVAL] basis to the First Lien Agent and/or the Consenting First Lien Lenders and their counsel and financial advisors of financial and other information as agreed to between the Applicant and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender~~Applicants, the First Lien Agent and the Majority Initial Consenting First Lien Lenders, as applicable;
- (d) advise the ~~Applicant~~Applicants in ~~its~~their preparation of the ~~Applicant's~~their cash flow statements ~~and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than [TIME INTERVAL], or as otherwise agreed to by the DIP Lender;~~as required from time to time, which may be used in these proceedings;
- (e) advise the ~~Applicant~~Applicants in ~~its~~their development of the Plan and any amendments to the Plan;
- (f) assist the ~~Applicant~~Applicants, to the extent required by the ~~Applicant~~Applicants, with the holding and administering of ~~creditors' or shareholders'~~ meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the ~~Applicant~~Applicants, to the extent that is necessary to adequately assess the ~~Applicant's~~Applicants' business and financial affairs or to perform its duties arising under this Order;

- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

27. ~~25.~~ THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

28. ~~26.~~ THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

29. ~~27.~~ THIS COURT ORDERS that that the Monitor shall provide any creditor of the ~~Applicant and the DIP Lender~~ Applicants with information provided by the ~~Applicant~~ Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the

Monitor has been advised by the ~~Applicant~~Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the ~~Applicant~~Applicants may agree.

30. ~~28.~~ THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

31. ~~29.~~ THIS COURT ORDERS that the Monitor, counsel to the Monitor, Canadian and counsel to the ApplicantU.S. counsel to the Applicants (the “Applicants’ Counsel”), the First Lien Agent, the Supplemental Agent, and Canadian and U.S. counsel to the First Lien Steering Committee, the First Lien Agent and the Supplemental Agent (collectively, the **“First Lien Counsel”**) shall be paid their reasonable fees and disbursements (including any pre-filing fees and disbursements), in each case at their standard rates and charges, ~~by the Applicant and the~~ financial advisor of the First Lien Steering Committee (the **“First Lien Financial Advisor”**) shall be paid its fees and disbursements (including any pre-filing fees and disbursements) pursuant to its engagement letter with Nelson Education dated June 24, 2013 (the **“FA Engagement Letter”**), by the Applicants as part of the costs of these proceedings. The ~~Applicant is~~Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, the Applicants’ Counsel, and ~~counsel for the Applicant~~First Lien Counsel on a [TIME INTERVAL] basis and, in addition, ~~the Applicant is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicant, retainers in the amount[s] of \$●-[, respectively,] to be held by them as security for payment of their respective fees and disbursements outstanding from time to time~~monthly basis and the First Lien Financial Advisor pursuant to the FA Engagement Letter, or such other basis as otherwise agreed by the Applicants and the applicable payee.

32. ~~30.~~ THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal

counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

~~33. 31.~~ THIS COURT ORDERS that the Monitor, counsel to the Monitor, ~~if any, and the Applicant's counsel~~ the Applicants' Counsel, the First Lien Agent, the Supplemental Agent, the First Lien Counsel and the First Lien Financial Advisor shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$~~●~~1 million, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor ~~and such counsel, counsel to the Monitor, the Applicants' Counsel and the First Lien Counsel and, in the case of the First Lien Financial Advisor, pursuant to the FA Engagement Letter,~~ both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs ~~{38} and {40}~~ 34 and 36 hereof.

DIP FINANCING

~~32. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to obtain and borrow under a credit facility from [DIP LENDER'S NAME] (the "DIP Lender") in order to finance the Applicant's working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed \$● unless permitted by further Order of this Court.~~

~~33. THIS COURT ORDERS THAT such credit facility shall be on the terms and subject to the conditions set forth in the commitment letter between the Applicant and the DIP Lender dated as of [DATE] (the "Commitment Letter"), filed.~~

~~34. THIS COURT ORDERS that the Applicant is hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "Definitive Documents"), as are contemplated by the Commitment Letter or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicant is hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Commitment Letter and the Definitive Documents as~~

and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. ~~THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "DIP Lender's Charge") on the Property, which DIP Lender's Charge shall not secure an obligation that exists before this Order is made. The DIP Lender's Charge shall have the priority set out in paragraphs [38] and [40] hereof.~~

36. ~~THIS COURT ORDERS that, notwithstanding any other provision of this Order:~~

- ~~(a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Lender's Charge or any of the Definitive Documents;~~
- ~~(b) upon the occurrence of an event of default under the Definitive Documents or the DIP Lender's Charge, the DIP Lender, upon ● days notice to the Applicant and the Monitor, may exercise any and all of its rights and remedies against the Applicant or the Property under or pursuant to the Commitment Letter, Definitive Documents and the DIP Lender's Charge, including without limitation, to cease making advances to the Applicant and set off and/or consolidate any amounts owing by the DIP Lender to the Applicant against the obligations of the Applicant to the DIP Lender under the Commitment Letter, the Definitive Documents or the DIP Lender's Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against the Applicant and for the appointment of a trustee in bankruptcy of the Applicant; and—~~
- ~~(c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicant or the Property.—~~

37. ~~THIS COURT ORDERS AND DECLARES that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicant under the CCAA,~~

or any proposal filed by the Applicant under the *Bankruptcy and Insolvency Act* of Canada (the "BIA"), with respect to any advances made under the Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

34. ~~38.~~ THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge and the ~~DIP Lender's~~ KERP Charge, as among them, shall be as follows⁹, subject to paragraph 36 of this Order:

First – Administration Charge (to the maximum amount of \$~~●~~1 million);

Second – ~~DIP Lender's Charge; and Third~~ – Directors' Charge (to the maximum amount of \$~~●~~2.2 million); and

Third – KERP Charge (to the maximum amount of \$340,000).

35. ~~39.~~ THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge, the Administration Charge or the ~~DIP Lender's~~ KERP Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

36. ~~40.~~ THIS COURT ORDERS that each of the ~~Directors' Charge, the Administration Charge and the DIP Lender's Charge (all as constituted and defined herein)~~ Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "~~Encumbrances~~" "Encumbrances") in favour of any Person, notwithstanding the order of perfection or attachment, except for any validly perfected security interest in favour of a "secured creditor" as defined in the CCAA existing as at the date hereof other than any validly perfected security interest in favour of the First Lien Agent, the Second

⁹ ~~The ranking of these Charges is for illustration purposes only, and is not meant to be determinative. This ranking may be subject to negotiation, and should be tailored to the circumstances of the case before the Court. Similarly, the quantum and caps applicable to the Charges should be considered in each case. Please also note that the CCAA now permits Charges in favour of critical suppliers and others, which should also be incorporated into this Order (and the rankings, above), where appropriate.~~

Lien Agent, the First Lien Lenders or the Second Lien Lenders. Nothing in this Order affects the priority of the First Lien Agent, the Second Lien Agent, the First Lien Lenders and the Second Lien Lenders against the rights of each other and third parties (other than beneficiaries of the Charges) as of the date of this Order.

37. ~~41.~~ THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the ~~Applicant~~Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the ~~Directors' Charge, the Administration Charge or the DIP Lender's Charge~~Charges, unless the ~~Applicant~~Applicants also ~~obtains~~obtain the prior written consent of the Monitor, ~~the DIP Lender~~ and the beneficiaries of the ~~Directors' Charge and the Administration Charge~~applicable Charges ~~affected thereby~~, or further Order of this Court.

38. ~~42.~~ THIS COURT ORDERS that the ~~Directors' Charge, the Administration Charge, the Commitment Letter, the Definitive Documents and the DIP Lender's Charge~~Charges shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") ~~and/or the DIP Lender~~ thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds the ~~Applicant~~Applicants, and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection; registration or performance of ~~the Commitment Letter or the Definitive Documents~~any documents in respect thereof or the Supplemental Support Agreement shall create or be deemed to constitute a breach by ~~the~~an Applicant of any Agreement to which it is a party;

- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the ~~Applicant entering into the Commitment Letter, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents or the Supplemental Support Agreement;~~ and
- (c) the payments made by the ~~Applicant~~Applicants pursuant to this Order, ~~the Commitment Letter or the Definitive Documents,~~ and the granting of the Charges; do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

39. ~~43.~~ THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the ~~Applicant's~~Applicants' interest in such real property leases.

SEALING ORDER

40. ~~THIS COURT ORDERS that each of (i) the summary of the KERP attached as Exhibit J to the Nordal Affidavit, and (ii) the Stockholders and Registration Rights Agreement attached as Exhibit H to the Nordal Affidavit be sealed, kept confidential and not form part of the public record, but rather shall be placed separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon further Order of this Court.~~

SERVICE AND NOTICE

41. ~~44.~~ THIS COURT ORDERS that the Monitor shall (i) without delay, publish in ~~[newspapers specified by the Court]~~the Globe and Mail a notice containing the information prescribed under the CCAA, and (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the ~~Applicant~~Applicants of more than ~~\$1000~~\$10,000, and (C) prepare a list showing the names and addresses of those

creditors, save and except creditors who are individuals, and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the claims, names and addresses of individuals who are creditors publicly available.

42. ~~45.~~ THIS COURT ORDERS that the E-Service ~~Protocol~~Guide of the Commercial List (the “**ProtocolGuide**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the ~~Protocol~~Guide (which can be found on the Commercial List website at ~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>~~; www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph ~~24~~13 of the ~~Protocol~~Guide, service of documents in accordance with the ~~Protocol~~Guide will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the ~~Protocol~~Guide with the following URL ~~“@”~~: <http://www.alvarezandmarsal.com/nelson>.

43. ~~46.~~ THIS COURT ORDERS that if the service or distribution of documents in accordance with the ~~Protocol~~Guide is not practicable, the ~~Applicant~~Applicants and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the ~~Applicant's~~Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the ~~Applicant~~Applicants and that any such service or distribution by courier, personal delivery or ~~facsimile~~electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

44. THIS COURT ORDERS that, except with respect to any motion to be heard on the Comeback Date (as defined below), or an urgent motion subject to further Order of this Court, any interested party that wishes to object to the relief to be sought in a motion brought in these

proceedings shall, subject to further Order of this Court, provide the Service List with responding motion materials or a written notice (including by e-mail) stating its objection to the motion no later than three (3) business days prior to the date such motion is returnable (the “Objection Deadline”). The Monitor shall have the right to extend the Objection Deadline after consulting with the Applicants.

45. THIS COURT ORDERS that following the expiry of the Objection Deadline, the Monitor or counsel to the Applicants shall inform the Court, including by way of a 9:30 a.m. appointment, of the absence or the status of any objections to the motion and the judge having carriage of the motion may determine (a) whether a hearing in respect of the motion is necessary, (b) whether such hearing will be in person, by telephone or by written submissions only and (c) the parties from whom submissions are required. In the absence of any such determination, a hearing will be held in the ordinary course on the date specified in the notice of motion.

GENERAL

46. ~~47.~~ THIS COURT ORDERS that ~~each of the Applicant or Applicants and~~ the Monitor may from time to time apply to this Court ~~to amend, vary, supplement or replace this Order or~~ for advice and directions ~~in~~concerning the discharge of ~~its~~their respective powers and duties ~~hereunder~~under this Order or the interpretation or application of this Order.

47. ~~48.~~ THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the ~~Applicant~~Applicants, the Business or the Property.

48. ~~49.~~ THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the ~~Applicant~~Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Applicant~~Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor

in any foreign proceeding, or to assist the ~~Applicant~~Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

49. ~~50.~~ THIS COURT ORDERS that each of the ~~Applicant~~Applicants and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

50. ~~51.~~ THIS COURT ORDERS that any interested party (~~including other than the Applicant and Applicants or the Monitor~~) ~~may apply to this Court to vary or~~that wishes to amend or vary this Order ~~on not less than seven (7) days~~shall be entitled to appear or bring a motion before this Court on a date to be set by this Court upon the granting of this Order (the “Comeback Date”), and any such interested party shall give notice to the Service List and any other party or parties likely to be affected by the ~~order sought or upon such other notice, if any, as this Court may order~~Order sought in advance of the Comeback Date.

51. ~~52.~~ THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.

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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
NELSON EDUCATION LTD. AND NELSON EDUCATION HOLDINGS LTD.

Applicants

ONTARIO
SUPERIOR COURT OF JUSTICE-
COMMERCIAL LIST

Proceeding commenced at Toronto

INITIAL ORDER

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Lawyers for the Applicants

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

Court File No: _____

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF NELSON EDUCATION LTD. AND NELSON EDUCATION HOLDINGS LTD.**

Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE-
COMMERCIAL LIST**

Proceeding commenced at Toronto

**APPLICATION RECORD
(returnable May 12, 2015)**

GOODMANS LLP

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