

**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

**MOTION RECORD**  
**(returnable on a date to be set by the Court)**

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# INDEX



**ONTARIO  
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NELSON EDUCATION HOLDINGS LTD.**

Applicants

**INDEX**

| <b>Tab</b> | <b>Document</b>   |
|------------|---|
| 1          | Notice of Motion dated May 15, 2015   |
| 2          | Affidavit of Dean Mullett, sworn May 11, 2015                                     |
| A          | Exhibit A – First Lien Support Agreement  |
| B          | Exhibit B – Form of Asset Purchase Agreement                                      |
| 3          | Draft Approval and Vesting Order  |
| 4          | Blackline of Draft Approval and Vesting Order to Model Approval and Vesting Order |

# **TAB 1**

Court File No. CV15-10961-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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**NOTICE OF MOTION  
(returnable on a date to be set by the Court)**

The Applicants will bring a motion before a Judge of the Commercial List on a date to be set by the Court at 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

**1. THE APPLICANTS MAKE A MOTION FOR AN ORDER:**

- (a) abridging the time for and validating the service of this Notice of Motion and the Motion Record and dispensing with further service thereof;
- (b) approving the sale of substantially all of the property and assets of Nelson Education Ltd. ("**Nelson Education**" or the "**Company**") contemplated by an asset purchase agreement (the "**Sale Agreement**") between Nelson Education, as Seller, and 682534 N.B. Inc., as Purchaser, to be entered into following the granting of the requested Approval and Vesting Order (the "**Transaction**");

- (c) authorizing the Seller to enter into the Sale Agreement;
- (d) authorizing and directing the Seller to complete the Transaction, subject to the terms of the Sale Agreement;
- (e) subject to the satisfaction or waiver of all conditions precedent and the delivery of a certificate (the “**Monitor’s Certificate**”) to the Purchaser by Alvarez & Marsal Canada Inc. (“**A&M**”), the Court-appointed monitor (the “**Monitor**”) in these proceedings, vesting all of the Seller’s right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement) in the Purchaser and/or one or more of its nominees, free and clear of, *inter alia*, any and all right, title, interest, liens, charges and encumbrances, other than permitted encumbrances, as set out in the proposed Order;
- (f) declaring that a Stockholders and Registration Rights Agreement (the “**Stockholders and Registration Rights Agreement**”) that is to apply in respect of the First Lien Lenders (as defined below) who are to become holders of the common shares of Purchaser Holdco (as defined in the affidavit of Greg Nordal sworn May 11, 2015 (the “**Nordal Affidavit**”)) as of the implementation of the Transaction, shall be effective and binding on all persons entitled to receive common shares of Purchaser Holdco in connection with the Transaction, as if such persons were signatories to the Stockholders and Registration Rights Agreement;
- (g) upon the official change to the legal names of the Applicants following closing of the Transaction, authorizing the deletion of the names of the Applicants in

the within title of proceedings and their replacement with the new legal names of the Applicants;

- (h) declaring that upon delivery of the Monitor's Certificate to the Purchaser, the Applicants, the Purchaser, their respective affiliates, the First Lien Lenders, the First Lien Agent (as defined below), Cortland Capital Market Services LLC, as sub-agent and supplemental administrative agent appointed in connection with the implementation of the Transaction, and their respective directors, officers, employees, advisors and other representatives (the "**Released Parties**") shall be released of claims in connection with the business of Nelson Education (the "**Nelson Business**"), the SISP (as defined below), the Transaction, the First Lien Credit Agreement (as defined below), these proceedings, and other related matters; and
- (i) such further and other relief as counsel may request and this Honourable Court deems just.

2. **THE GROUNDS FOR THIS MOTION ARE:**

- (a) on May 12, 2015, Nelson Education and its parent company, Nelson Education Holdings Ltd. ("**Holdings**"), filed an application to commence proceedings pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") and sought and obtained an Initial Order;
- (b) the principal objectives of these CCAA proceedings are to ensure the ongoing operations of the Applicants for the benefit of their many stakeholders and to

complete the sale and transfer of the Nelson Business to the Purchaser pursuant to the Transaction;

- (c) the Company has been unable to repay or refinance its obligations under its First Lien Credit Agreement dated as of July 5, 2007 (the “**First Lien Credit Agreement**”) among Nelson Education, Holdings, Royal Bank of Canada, as Administrative Agent, Collateral Agent and Swing Line Lender, as succeeded by Wilmington Trust, National Association, as Administrative Agent and Collateral Agent (the “**First Lien Agent**”), and the lenders party thereto (the “**First Lien Lenders**”) which matured on July 3, 2014, and is in default under its Second Lien Credit Agreement dated as of July 5, 2007 (the “**Second Lien Credit Agreement**”, together with the First Lien Credit Agreement, the “**Credit Agreements**”) among Nelson Education, Holdings, Royal Bank of Canada, as Administrative Agent and Collateral Agent (the “**Second Lien Agent**”) and the lenders party thereto (the “**Second Lien Lenders**”);
- (d) Holdings, a guarantor under each of the Credit Agreements, is also unable to satisfy its guarantee obligations thereunder;
- (e) commencing in March 2013 with the engagement of A&M as the Company’s financial advisor, the Company reviewed and considered potential strategic alternatives;
- (f) the Company and A&M conducted an extensive review of strategic and transaction alternatives and completed a comprehensive sale and investment process (the “**SISP**”) pursuant to a support agreement dated September 10,

2014 (the “**First Lien Support Agreement**”), entered into by Nelson Education, Holdings, the First Lien Agent and 21 of the 22 First Lien Lenders, or approximately 95% of all of the First Lien Lenders, representing approximately 88% of the principal amounts outstanding under the First Lien Credit Agreement (the “**Consenting First Lien Lenders**”);

- (g) the only First Lien Lender that is not a Consenting First Lien Lender is also a Second Lien Lender;
- (h) the First Lien Support Agreement provided for, among other things: (i) a comprehensive and open SISP to be conducted by the Company to identify one or more potential purchasers of, or investors in, the Nelson Business, and (ii) if a transaction that would provide for net sale or investment proceeds sufficient for payment in full of all obligations under the First Lien Credit Agreement or that is otherwise acceptable to First Lien Lenders holding at least 66 2/3% of the outstanding obligations under the First Lien Credit Agreement was not identified pursuant to the SISP, a credit bid by the First Lien Lenders of all of the debt owing to them under the First Lien Credit Agreement to effectuate the Transaction;
- (i) pursuant to the SISP, the Company and A&M carried out a thorough canvassing of the market; however, the SISP did not result in a transaction that would result in proceeds to repay in full the approximately US\$270 million of first lien obligations under the First Lien Credit Agreement or would otherwise be supported by the First Lien Lenders;

- (j) the Transaction represents the only executable transaction available in the circumstances;
- (k) the Company, with the assistance of A&M and its legal advisors, and in consultation with a steering committee of First Lien Lenders (the “**First Lien Steering Committee**”) and its advisors, determined that it would proceed with the Transaction at this time pursuant to the First Lien Support Agreement;
- (l) the Transaction enables the Nelson Business to continue as a going concern and is expected to result in a transition of ownership to the Purchaser without disruption to the Nelson Business;
- (m) the Sale Agreement provides for, among other things:
  - (i) the assumption by the Purchaser of substantially all of the Company’s trade payables, contractual obligations and employment obligations incurred in the ordinary course and as reflected in the Company’s balance sheet (other than certain obligations in respect of former employees, the Second Lien Credit Agreement and the Nelson Education Promissory Note (as defined in the Nordal Affidavit)); and
  - (ii) an offer of employment by the Purchaser to all of the Company’s employees;
- (n) under the Transaction, the Purchaser will not assume certain of the Company’s obligations, including any of the Company’s obligations to the Second Lien



Agent or the Second Lien Lenders under the Second Lien Credit Agreement and other excluded liabilities as set out in the Sale Agreement;

- (o) the closing of the Transaction is also subject to certain customary conditions and receipt of requisite approvals;
- (p) the Order being sought by the Applicants for the approval of the Transaction, and the vesting in the Purchaser and/or one or more of its nominees of the Seller's right, title and interest in and to the Purchased Assets, the form and substance of which has been agreed to by the Purchaser, is a key condition to the completion of the Transaction;
- (q) the Monitor has obtained an independent legal opinion from its counsel on the security granted in respect of the First Lien Credit Agreement and the Second Lien Credit Agreement, that the Applicants have granted valid security interests to the First Lien Agent on behalf of the First Lien Lenders and the Second Lien Agent on behalf of the Second Lien Lenders, respectively, in substantially all of the assets of the Applicants, which have been properly perfected;
- (r) pursuant to Section 6.1(a) of the Intercreditor Agreement, the Second Lien Agent has agreed on behalf of the Second Lien Lenders not to oppose a sale consented to by the First Lien Lenders;
- (s) the Stockholders and Registration Rights Agreement has been negotiated and agreed to by Purchaser Holdco and the First Lien Steering Committee, and the

First Lien Steering Committee requires that all of the First Lien Lenders be bound to the terms of the Stockholders and Registration Rights Agreement;

- (t) the Applicants, the Purchaser and the Consenting First Lien Lenders have consented to the release of claims against the Released Parties in connection with the Nelson Business, the SISP, the Transaction, the First Lien Credit Agreement, these proceedings, and other related matters;
- (u) the facts and circumstances described in the Nordal Affidavit and the affidavit of Dean Mullett sworn May 11, 2015 (the “**Mullett Affidavit**”);
- (v) the provisions of the CCAA and this Honourable Court’s equitable and statutory jurisdiction thereunder;
- (w) Rules 2.03, 3.02, 16 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended; and
- (x) such further and other grounds as counsel may advise and this Honourable Court permit.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE WILL BE USED AT THE HEARING OF THE APPLICATION:**

- (a) the Nordal Affidavit and the exhibits attached thereto;
- (b) the Mullett Affidavit and the exhibits attached thereto;
- (c) the Monitor’s Pre-Filing Report and the appendices attached thereto; and

- (d) such further and other materials as counsel may advise and this Court may permit.

Date: May 15, 2015

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

Court File No: CV15-10961-00CL

**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

**NOTICE OF MOTION  
(returnable on a date to be set by the Court)**

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## **TAB 2**

ONTARIO  
SUPERIOR COURT OF JUSTICE

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Applicants

AFFIDAVIT OF DEAN MULLETT  
(sworn May 11, 2015)

I, Dean Mullett, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

**I. INTRODUCTION**

1. I am a Managing Director at Alvarez & Marsal Canada Securities ULC ("**A&M**") in Toronto. A&M was engaged by Nelson Education Ltd. ("**Nelson Education**" or the "**Company**") in March 2013 as its financial advisor to assist the Company in reviewing and considering potential strategic alternatives. In addition, in September 2014, the Company engaged A&M to also assist with a sale and investment solicitation process (the "**SISP**") pursuant to a support agreement dated September 10, 2014 (the "**First Lien Support Agreement**") among Nelson Education, Nelson Education Holdings Ltd. ("**Holdings**", together with Nelson Education, the "**Applicants**"), the First Lien Agent (as defined below) and the Consenting First Lien Lenders (as defined below). As such, I have personal knowledge of the

matters to which I depose in this Affidavit. Where I do not possess personal knowledge, I have stated the source of my information and in all such cases believe it to be true.<sup>1</sup>

2. As further discussed below, the Company and A&M conducted an extensive review of strategic and transaction alternatives commencing with A&M's engagement in March 2013, and completed a comprehensive SISP pursuant to the First Lien Support Agreement. A copy of the First Lien Support Agreement (without lender signature pages), which attaches a copy of the SISP, is attached hereto as Exhibit "A".

3. Pursuant to the SISP, the Company and A&M carried out a thorough canvassing of the market. The SISP, however, did not result in a transaction that would result in proceeds to repay in full the approximately US\$270 million of first lien obligations under the First Lien Credit Agreement (as defined below) or would otherwise be supported by the First Lien Lenders (as defined below). Accordingly, pursuant to the First Lien Support Agreement and as further discussed below, the Company is proceeding at this time with the Transaction (as defined below).

4. The Transaction includes, among other things:

- (a) the transfer of substantially all of the Company's assets to a newly incorporated entity (the "**Purchaser**") to be owned indirectly by the Company's First Lien Lenders;
- (b) the assumption by the Purchaser of substantially all of the Company's trade payables, contractual obligations and employment obligations

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<sup>1</sup> All dollar amounts expressed herein, unless otherwise noted, are in Canadian currency.

incurred in the ordinary course and as reflected in the Company's balance sheet (other than as set out in paragraphs 60 and 61 below);

- (c) an offer of employment by the Purchaser to all of the Company's employees; and
- (d) an exchange and release by the First Lien Lenders of all of the indebtedness owing under the First Lien Credit Agreement for: (i) 100% of the common shares of a newly incorporated entity ("**Purchaser Holdco**") that will own 100% of the common shares of the Purchaser, and (ii) the obligations under a new US\$200 million first lien term facility to be entered into by the Purchaser.

5. Under the First Lien Support Agreement, the parties agreed they would determine the appropriate process to implement the Transaction by the applicable milestone date under the First Lien Support Agreement. The Applicants and the Consenting First Lien Lenders ultimately determined that a Court-supervised process under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") is the most appropriate manner for implementing the Transaction. On May 12, 2015, the Applicants intend to seek an Order of this Court protecting the Applicants from their creditors pursuant to the CCAA (the "**Initial CCAA Order**").

6. This Affidavit is sworn in support of a motion by the Applicants under the CCAA for an Order (the "**Approval and Vesting Order**"), among other things:



- (a) approving the Transaction contemplated by the Asset Purchase Agreement to be entered into by Nelson Education and the Purchaser following the granting of the requested Approval and Vesting Order (the “**Asset Purchase Agreement**”, the form of which is attached hereto (without schedules or exhibits) as Exhibit “B”);
- (b) authorizing Nelson Education to enter into the Asset Purchase Agreement and authorizing and directing Nelson Education to complete the Transaction;
- (c) upon delivery of the closing certificate by the Court-appointed Monitor (the “**Monitor’s Certificate**”) in these proceedings to the Purchaser, vesting all of Nelson Education’s right, title and interest in and to the Purchased Assets (as defined in the Asset Purchase Agreement) in the Purchaser, or one or more of its nominees, free and clear of all interests, liens, charges and encumbrances, other than permitted encumbrances, as set out in the Approval and Vesting Order;
- (d) binding all persons entitled to receive common shares of Purchaser Holdco in connection with the Transaction by a Stockholders and Registration Rights Agreement as if such persons were signatories thereto;
- (e) upon delivery of the Monitor’s Certificate, the release and discharge of the KERP Charge (as defined in the Nordal Affidavit, as defined below) and the assumption of the obligations under the KERP (as defined in the

Nordal Affidavit) by the Purchaser pursuant to and subject to the terms of the Asset Purchase Agreement;

- (f) upon delivery of the Monitor's Certificate, an amendment to the Administrative Charge (as defined in the Nordal Affidavit) to reduce it to an aggregate amount of \$400,000 for the benefit of the Monitor and the Monitor's counsel only; and
- (g) a mutual release of claims among the Applicants, the Purchaser, their respective affiliates, the First Lien Lenders, the First Lien Agent, Cortland Capital Market Services LLC, as sub-agent and supplemental administrative agent appointed in connection with the implementation of the Transaction, and their respective directors, officers, employees, advisors and other representatives in connection with the Nelson Business, the SISP, the Transaction, the First Lien Credit Agreement, these proceedings, and other related matters.

## **II. BACKGROUND**

7. As more fully described in the affidavit of Greg Nordal sworn May 11, 2015 in support of the Applicants' application for the Initial CCAA Order (the "**Nordal Affidavit**"), Nelson Education is Canada's leading education publishing company, providing learning solutions to universities, colleges, students, teachers, professors, libraries, government agencies, schools, professionals and corporations across the country. Nelson Education has a deep line of products focused across the various segments of the education market. It is also a leading developer of digital educational resources.

8. Nelson Education operates two business segments: (i) K-12, which services schools, school boards, provincial Ministries of Education, teachers and students from kindergarten to grade 12 (the “**K-12 Business**”); and (ii) Higher Education, which services the post-secondary education market, including universities, colleges, and trade schools (the “**Higher Education Business**”, together with the K-12 Business, the “**Nelson Business**”).

9. As discussed in the Nordal Affidavit, the business and assets of Nelson Education had been acquired by certain private equity investors in July 2007 from The Thomson Corporation together with the U.S. business and assets of Thomson Learning for a combined total value of approximately US\$7.75 billion, of which approximately US\$550 million was attributed to the Canadian business (the “**2007 Acquisition**”). Shortly after the 2007 Acquisition, Thomson Learning Group, outside of Canada, changed its name to Cengage Learning Holdings II, LP (“**Cengage**”).<sup>2</sup> Nelson Education maintains a strong relationship with Cengage and is the exclusive distributor for Cengage education content in Canada. Cengage is a preferred and key business partner of Nelson Education.

10. In connection with the 2007 Acquisition, as a result of, among other factors, certain *Investment Canada Act* (Canada) restrictions with respect to non-Canadian acquisition of a majority interest in a Canadian book publisher, the Company was structured as a separate entity. The Company was financed separately from the Thomson Learning Group by way of first lien debt in the initial aggregate principal amount of US\$311,438,278.60 and a revolver facility<sup>3</sup>

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<sup>2</sup> In July 2013, Cengage filed voluntary petitions for reorganization under Chapter 11 of the U.S. Bankruptcy Code in the Bankruptcy Court for the Eastern District of New York. On March 31, 2014, Cengage Learning completed its financial restructuring and emerged from its Chapter 11 reorganization.

<sup>3</sup> The revolving facility under the First Lien Credit Agreement matured in July 2013.

in an initial aggregate principal amount of \$50 million pursuant to the First Lien Credit Agreement (as defined below) and second lien debt in an initial aggregate principal amount of US\$171,291,053.23 pursuant to the Second Lien Credit Agreement (as defined below). At the time of the 2007 Acquisition, the value of the Canadian dollar to the U.S. dollar was approximately \$1.00 to US\$0.9463.

11. The Company currently has, in the aggregate, over US\$430 million (or over \$544 million in Canadian dollars<sup>4</sup>) of secured first and second lien debt (including accrued interest) outstanding under its Credit Agreements, resulting in an unsustainable leverage ratio of debt to EBITDA, net of pre-publication expenditures, of approximately 17:1 for the fiscal year ending March 31, 2015.

12. As discussed in the Nordal Affidavit, Nelson Education has also been facing certain financial challenges resulting from, among other things, a general decline in the Canadian kindergarten to grade 12 market and higher education market over the past few years.

13. Despite Nelson Education's significant efforts to address its financial challenges and existing debt levels, including pursuing efforts to pay-down debt, implementing cost-saving initiatives, engaging in extensive discussions with its stakeholders and exploring numerous potential transaction alternatives (as further discussed below), Nelson Education has been unable to repay or refinance its obligations under its First Lien Credit Agreement dated as of July 5, 2007 (the "**First Lien Credit Agreement**") among Nelson Education, Holdings, Royal Bank of Canada, as Administrative Agent, Collateral Agent and Swing Line Lender, as succeeded by

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<sup>4</sup> Based on the exchange rate of \$1.00 to US\$0.7895 as at March 31, 2015.

Wilmington Trust, National Association, as Administrative Agent and Collateral Agent (the “**First Lien Agent**”), and the lenders party thereto (the “**First Lien Lenders**”) which matured on July 3, 2014, and is in default under its Second Lien Credit Agreement dated as of July 5, 2007 (the “**Second Lien Credit Agreement**”, together with the First Lien Credit Agreement, the “**Credit Agreements**”) among Nelson Education, Holdings, Royal Bank of Canada, as Administrative Agent and Collateral Agent (the “**Second Lien Agent**”) and the lenders party thereto (the “**Second Lien Lenders**”). Holdings, a guarantor under each of the Credit Agreements, is also unable to satisfy its guarantee obligations thereunder.

14. As further discussed below, after due consideration of the results of the Company’s strategic review process and the SISP, the circumstances of the Applicants, the status of the Nelson Business and the benefits to the Applicants’ stakeholders, the Applicants determined that proceeding with the Transaction is in the best interests of the Applicants and their stakeholders.

### **III. A&M**

15. A&M is the Canadian corporate finance arm of Alvarez & Marsal, a global professional services firm and a leading provider of corporate advisory services. Founded in 1983, Alvarez & Marsal is headquartered in New York with 40 offices across North America, Europe, the Middle East, Asia and Latin America and provides a variety of corporate and financial advisory services to clients, including transaction advisory services, strategic financial advisory services, turnaround management, corporate restructuring and operational performance improvement for companies and stakeholders.

16. A&M has extensive knowledge of the financial marketplace, significant experience in mergers, acquisitions and other corporate finance transactions, and a lengthy record of successful transactions.

17. I have more than eighteen years of capital markets experience, specializing in merger and acquisition transactions, capital raising and balance sheet restructurings.

18. Prior to joining A&M, I was a partner with PricewaterhouseCoopers, where I spent 13 years in various leadership roles within the Corporate Finance practice, and more than five years in the Restructuring practice. I also served as Canadian Co-Head of PricewaterhouseCoopers's Restructuring and Distressed Strategy Group.

19. I have been working with a team of professionals at A&M as part of our engagement as the Company's financial advisor to assist the Company in reviewing and considering potential strategic alternatives as well as our engagement to assist with the SISP.

#### **IV. STRATEGIC REVIEW PROCESS**

20. As noted above, A&M was engaged by the Company in March 2013 as its financial advisor to assist the Company in reviewing and considering potential strategic alternatives.

21. Commencing in April 2013, Nelson Education, with the assistance of A&M and its legal advisors, entered into discussions with a number of stakeholders, including the Second Lien Agent, a steering committee of First Lien Lenders (the "**First Lien Steering Committee**"), and their respective advisors, in an effort to achieve a transaction that would, among other things, address the Company's obligations under its Credit Agreements, protect value, improve the

financial position of the Company, and create stability for the Nelson Business, including the Company's employees, customers, lenders and other key stakeholders.

22. Nelson Education and its advisors engaged in continued dialogue and sought continuous feedback in respect of potential consensual transaction alternatives, including the exchange of a number of without prejudice and confidential proposed transaction term sheets between August 2013 and September 2014. Members of the Company's management and its advisors attended several in-person meetings with the First Lien Steering Committee and its advisors, and with the Second Lien Agent and its advisors, and diligently pursued a consensual solution.

23. As discussed in the Nordal Affidavit, Cengage had commenced Chapter 11 proceedings in July 2013, and completed its financial restructuring and emerged from its Chapter 11 reorganization on March 31, 2014. The Company's lenders wanted to better understand the Cengage restructuring prior to advancing in detail Nelson Education's recapitalization.

24. On July 7, 2014, Nelson Education commenced a consent solicitation process to solicit the consent of the First Lien Lenders to the amendment and extension of the First Lien Credit Agreement (the "**July Proposed Extension**"). First Lien Lenders were asked to provide their consent to the July Proposed Extension on or prior to the early consent date in respect of the July Proposed Extension, which consent date had last been extended to September 10, 2014. The July Proposed Extension did not receive the support of the First Lien Lenders.

25. Following the announcement of the July Proposed Extension, the Company and its advisors continued to have discussions and meetings with the First Lien Steering Committee

and its advisors, and with the Second Lien Agent and its advisors, with the aim of achieving a consensual solution that would be supported by Nelson Education's lenders.

26. On September 10, 2014, the Company announced to the First Lien Lenders the Company's proposed transaction framework on the terms set out in the First Lien Term Sheet dated September 10, 2014 (the "**First Lien Term Sheet**") for a sale or restructuring of the business and sought the support of all of its First Lien Lenders.

27. The First Lien Term Sheet provides for among other things (i) a comprehensive and open SISP to be conducted by the Company to identify one or more potential purchasers of, or investors in, the Nelson Business, and (ii) if a transaction that would provide for net sale or investment proceeds sufficient for payment in full of all obligations under the First Lien Credit Agreement or that is otherwise acceptable to First Lien Lenders holding at least 66 2/3% of the outstanding obligations under the First Lien Credit Agreement (a "**Superior Offer**") was not identified pursuant to the SISP, a credit bid by the First Lien Lenders of all of the debt owing to them under the First Lien Credit Agreement to effectuate a conversion of the First Lien Lenders' claims for a new first lien term facility and for common shares of the Purchaser (the "**Transaction**").

28. In connection with the First Lien Term Sheet, Nelson Education and Holdings entered into the First Lien Support Agreement with First Lien Lenders representing approximately 88% of the principal amounts outstanding under the First Lien Credit Agreement (the "**Consenting First Lien Lenders**"). The Consenting First Lien Lenders comprise 21 of the 22 First Lien Lenders, or approximately 95% of all of the First Lien Lenders. The only First Lien Lender that is not a Consenting First Lien Lender is also a Second Lien Lender.



29. Following the announcement of the First Lien Term Sheet and the Transaction, the Company continued certain limited discussions and exchange of correspondence with the Second Lien Agent.

**V. SISP**

30. As noted above, in September 2014, pursuant to the First Lien Support Agreement, the Company engaged A&M to assist with the SISP to identify one or more potential purchasers of, or investors in, the Nelson Business with the goal of maximizing value for the Company's stakeholders. By that time, A&M had been advising the Company for over 17 months and had gained a strong understanding of the Nelson Business and the educational publishing industry.

31. In connection with the commencement of the SISP, A&M undertook a comprehensive assessment of the market for the Nelson Business to identify potential purchasers or investors that might be interested in considering an acquisition or investment transaction. A&M, together with the Company and its legal advisors, and in consultation with the advisors to the First Lien Steering Committee, identified 168 prospective parties to contact and invite to participate in the SISP, including both financial and strategic parties located in Canada, the United States and/or Europe. The SISP undertaken by A&M was comprehensive and was developed on the same basis as if such process would have been conducted under a CCAA process.

32. A&M and the Company's management also worked to prepare a confidential information memorandum (the "CIM") for prospective purchasers and lenders to review upon execution of a confidentiality agreement. The CIM provided an overview of and significant

detail about, among other things, the Nelson Business, including historical and forecast financial information, the market, the industry, and key supplier relationships. A&M also prepared a teaser document to send to potential purchasers and investors to generate interest in a transaction involving the Nelson Business.

33. The SISP was structured as a two-phase process. The first phase (“**Phase 1 of the SISP**”) involved contacting potential purchasers and lenders, initial due diligence and receipt by the Company of non-binding letters of interest (“**LOIs**”). Pursuant to the SISP, a Superior Offer acceptable to the Company and the First Lien Steering Committee was to be received by November 7, 2014, in order for the Company to proceed to the second phase of the SISP (“**Phase 2 of the SISP**”).

34. Phase 2 of the SISP involved additional due diligence, data room access, management presentations and, pursuant to the First Lien Support Agreement, the completion of binding documentation with respect to a Superior Offer by December 15, 2014 (which date was subsequently extended to June 2, 2015, pursuant to the First Lien Support Agreement).

**(a) Phase 1 of the SISP**

35. The Company, with the assistance of its advisors, commenced the SISP on September 22, 2014, pursuant to the First Lien Support Agreement, with the objective of identifying one or more potential purchasers of, or investors in, the Nelson Business, and A&M began to contact prospective purchasers to solicit interest in a potential transaction.

36. A&M provided potential purchasers with the teaser document containing information about the Nelson Business as an additional step to entice interest in the opportunity

to acquire or invest in the Nelson Business, held discussions with representatives of each party to provide additional overview of the Company and the potential transaction opportunity, and invited interested parties to enter into confidentiality arrangements to obtain additional information with respect to the Company and the Nelson Business.

37. In addition to contacting 168 prospective purchasers, A&M also contacted 11 potential lenders to obtain financing guidance to support a possible transaction under the SISP and to ascertain such lenders' potential interest in providing either a staple financing package or debt financing in support of a potential transaction.

38. Ultimately, 65 parties executed confidentiality agreements with Nelson Education, including 57 potential purchasers and 8 potential lenders, and were provided with the CIM. Potential lenders were provided with a process letter containing instructions for submitting a non-binding summary outlining their interest in providing acquisition financing with respect to a potential transaction involving the Nelson Business (the "**Non-Binding Financing Summary**") and were asked to submit their Non-Binding Financing Summary by October 27, 2014. Potential purchasers were provided with a process letter containing instructions for submitting an LOI and were asked to submit their LOI by 5:00 p.m. (EST) on November 7, 2014.

39. A&M, the Company and its legal advisors worked diligently with potential purchasers and potential lenders throughout this period to respond to inquiries, discuss the Nelson Business and the acquisition or investment opportunity, and to otherwise ensure that the prospective purchasers and lenders had the information necessary to formulate a Non-Binding

Financing Summary or LOI, as applicable, in respect of a potential transaction involving the Nelson Business.

40. A&M provided regular updates on activities being undertaken pursuant to the SISP to the Company's board of directors and the advisors to the First Lien Steering Committee.

41. A total of three potential lenders interested in participating in a potential transaction involving the Nelson Business provided non-binding financing guidance in connection with such a transaction and consented to such guidance being shared with prospective purchasers. The potential lenders were not, however, prepared to provide a committed financing package in advance of a full understanding of the nature of a potential transaction, including the identity of an ultimate purchaser.

42. A total of seven potential purchasers submitted LOIs, six of which were offers to purchase substantially all of the Nelson Business and one was an offer to acquire the K-12 Business.

43. In accordance with the terms of the SISP, the Company, with the assistance of its advisors, reviewed the LOIs submitted, and following certain clarifying discussions with potential bidders and consultation with the First Lien Steering Committee and its advisors, determined that multiple LOIs qualified as potentially Superior Offers under the SISP. Accordingly, the Company proceeded with Phase 2 of the SISP.

**(b) Phase 2 of the SISP**

44. After considering, among other things, purchase price, transaction structure, timing and conditions under the submitted LOIs, the Company with the assistance of A&M and

its legal advisors, and in consultation with the First Lien Steering Committee and its advisors, determined that five of the parties that submitted LOIs would be invited to participate in Phase 2 of the SISP (the “**Phase 2 Participants**”). It was determined that the LOIs submitted by the two other parties represented values that did not warrant advancing further discussions with such parties. A&M advised the parties whether or not they would be advancing to Phase 2 of the SISP.

45. Phase 2 Participants were granted access to the Company’s data room, which contained, among other things, detailed financial, operational, human resources, legal, customer and supplier information of the Company, to assist the Phase 2 Participants in assessing the Nelson Business and a possible transaction.

46. A management presentation was also developed and delivered by the Company’s senior management, with the assistance of A&M, to each of the Phase 2 Participants and, in certain circumstances, their advisors, at the offices of the Company’s legal advisors in Toronto.

47. Following the initial management presentations, all Phase 2 Participants conducted detailed due diligence, including reviewing materials in the Company’s data room, making additional data room information requests, participating in further management meetings and/or reviewing more detailed financial information, including the Company’s detailed financial model. Certain of the Phase 2 Participants also engaged specialized industry advisors to assist in their evaluation of the Company’s business, market and prospects.

48. Throughout Phase 2 of the SISP, A&M and the Company continued to work diligently with the Phase 2 Participants to respond to due diligence requests and inquiries and to otherwise provide the Phase 2 Participants with the requested information.

49. On or about December 5, 2014, A&M provided a form of asset purchase agreement to each of the Phase 2 Participants and requested that the Phase 2 Participants provide a mark-up of the form agreement on or before December 19, 2014.

50. As at December 19, 2014, three Phase 2 Participants submitted non-binding offers, two of which were for the purchase of substantially all of the Nelson Business and one was for the acquisition of the K-12 Business. All three offers received remained subject to further due diligence and reflected values that were significantly below the value of the obligations under the First Lien Credit Agreement, the level required to be considered a Superior Offer pursuant the SISP and First Lien Support Agreement.

51. On December 19, 2014, one of the Phase 2 Participants advised A&M that it required additional time to complete and submit its offer pursuant to Phase 2 of the SISP (which additional time was granted, following discussions with key stakeholders) and on December 23, 2014, submitted its non-binding offer, following additional discussions with respect to certain due diligence matters. This Phase 2 Participant's bid remained subject to significant additional due diligence and confirmation of debt financing sources by the Phase 2 Participant, and was not ultimately advanced by the bidder.

52. In addition, the Company, with the assistance of its advisors, also maintained communications with Cengage throughout its restructuring efforts, including the SISP. The Company engaged in preliminary discussions with Cengage with respect to a potential transaction and related benefits to each of Nelson Education and Cengage under the agreements between the parties. In February 2015, Cengage and Nelson Education terminated their discussions about a potential sale transaction. Cengage and Nelson Education continue to

discuss and advance ongoing business and operational matters and continue to have a strong business relationship related to the creation and delivery of high quality educational products.

53. Ultimately, Phase 2 of the SISP did not result in an executable transaction that would result in proceeds to repay the obligations under the First Lien Credit Agreement in full or would otherwise be supported by the First Lien Lenders. As noted above, among other factors, in the approximately 6 month period following the commencement of the SISP, the value of the Canadian dollar as against the U.S. dollar fell by approximately 13%, and the Company's first lien obligations to be repaid are approximately US\$270 million.

54. Accordingly, the Company with the assistance of A&M and its legal advisors, and in consultation with the First Lien Steering Committee and its advisors, determined that it would proceed with the Transaction at this time pursuant to the First Lien Support Agreement.

55. Concurrently with the carrying out of the SISP, the Company and its advisors had worked with the First Lien Steering Committee and its advisors in connection with the potential Transaction in the event a Superior Offer was not achieved. The parties worked to settle the key transaction documents in connection with proceeding with the Transaction and have agreed to execute the Asset Purchase Agreement upon entry of the requested Approval and Vesting Order approving the Transaction.

56. Additional factual background concerning the Applicants and their sale and restructuring efforts is set forth in the Nordal Affidavit.

**VI. MOTION FOR APPROVAL OF THE SALE TRANSACTION**

57. After completion of the comprehensive SISP, I believe that the Transaction represents the best offer and highest purchase price that could be obtained for the assets of the Company. The Asset Purchase Agreement represents an enterprise value for the Purchased Assets that is significantly higher than any viable offer for the Nelson Business made in the course of the comprehensive SISP.

58. In addition, the Transaction enables the Nelson Business to continue as a going concern and the Asset Purchase Agreement provides for the assumption by the Purchaser of substantially all of the Company's trade payables, contractual obligations and employment obligations incurred in the ordinary course and as reflected in the Company's balance sheet (other than as set out in paragraphs 60 and 61 below), and employment offers by the Purchaser to all of the Company's employees, thereby resulting in a transition of ownership with minimal disruption to the Nelson Business.

59. The Transaction is also intended to preserve the Company's ongoing relationship with Cengage, its preferred and key business partner, and the arrangements between the parties are to remain unaffected under the Transaction.

60. Under the Transaction, the Purchaser will not assume certain of the Company's obligations, including (i) any of the Company's obligations to the Second Lien Agent or the Second Lien Lenders under the Second Lien Credit Agreement, (ii) any liabilities relating to excluded assets, including excluded contracts (if any), (iii) any pre-closing environmental liabilities of the Company, except as required under applicable law, (iv) any liabilities of the Company with respect to any pre-closing infringement, misappropriation, misuse or passing off



of intellectual property (if any), and (v) any other liability of the Company not expressly assumed under the Asset Purchase Agreement, including the Nelson Education Promissory Note (as defined in the Nordal Affidavit).

61. In addition, pursuant to the Asset Purchase Agreement, the Purchaser may, in its sole and absolute discretion, at any time up to three business days prior to the closing of the Transaction, elect to not acquire any of the assets, properties, and rights of the Company, including contracts of the Company specified as excluded contracts by the Purchaser.

62. The Company maintains the ability under the Transaction to complete a sale transaction that would result in proceeds sufficient to repay the obligations under the First Lien Credit Agreement in full prior to the closing of the Transaction.

63. The Transaction thus represents the best available alternative for the Applicants in the circumstances.

64. The Transaction is subject to customary conditions and receipt of requisite approvals. The parties are seeking to complete the Transaction prior to the outside date of June 2, 2015 under the Purchase Agreement.

65. I have been advised by Mr. Chadwick, the Company's counsel that, among others, parties with a registered security interest under the *Personal Property Security Act* (Ontario) will be served with the within motion.

**VII. CONCLUSION**

66. Despite the significant time, effort and expenditure devoted to the exploration of various transaction alternatives, extensive discussions with First Lien Lenders, discussions with the Second Lien Agent, discussions with Cengage, and the carrying out of the comprehensive SISP, the Company has not been able to identify a recapitalization or open market sale transaction that would result in proceeds to repay the obligations under the First Lien Credit Agreement in full or would otherwise be supported by its First Lien Lenders. The Transaction is the only executable transaction available under the circumstances.

67. After carrying out a comprehensive strategic review process and the SISP involving 168 potential purchasers and 11 potential lenders, and considering the various offers submitted by potential purchasers, it became apparent that the Company would not be able to enter into a transaction that permitted the Applicants to repay in full the approximately US\$270 million of amounts owing to the First Lien Lenders under the First Lien Credit Agreement. The Applicants do not otherwise have the ability to refinance or sell the assets of the Company in order to repay the First Lien Credit Agreement in full. I believe the Asset Purchase Agreement therefore represents the greatest value and best available alternative to the Applicants and their stakeholders as a whole in the circumstances and the best opportunity to normalize the Company's capital structure and preserve the value of the Nelson Business.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, on May 11, 2015

  
\_\_\_\_\_  
A Commissioner for taking affidavits

  
\_\_\_\_\_  
Dean Mullett

MELANIE MARIE THOMAS, a  
Commissioner, etc., Province of Ontario,  
while a Student-at-Law.  
Expires April 24, 2016.

# TAB A

**THIS IS EXHIBIT "A" REFERRED TO IN THE  
AFFIDAVIT OF DEAN MULLETT  
SWORN BEFORE ME  
ON THIS 11TH DAY OF MAY, 2015**

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

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**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

- 2 -

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,

- 4 -

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;

- 6 -

- (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

- 8 -

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;

- 12 -

- (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)

- 18 -

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<sup>2/3</sup>% 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<sup>2/3</sup>% 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.

- 24 -

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

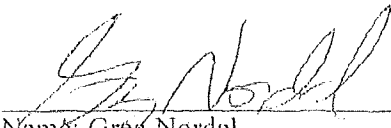
- (o) The payment and issuance of fees, costs, expenses, compensation and other amounts under this Support Agreement will be made free and clear of and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charged (including 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.

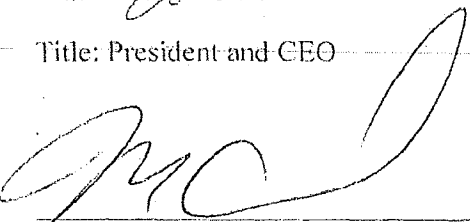
- (r) This Support Agreement may be executed by facsimile or other electronic means and in one or more counterparts, all of which shall be considered one and the same agreement.

*[Remainder of Page Intentionally Left Blank]*

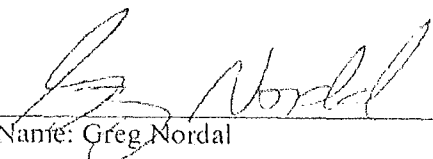
IN WITNESS WHEREOF, each of the undersigned has caused this Support Agreement to be duly executed and delivered by its proper and duly authorized officer as of the date first written above.

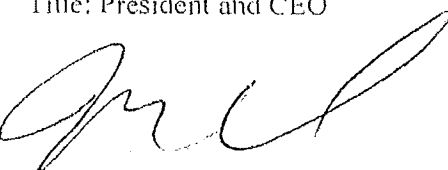
NELSON EDUCATION LTD.

By:   
Name: Greg Nordal  
Title: President and CEO

By:   
Name: Michael Andrews  
Title: SVP Finance and CFO

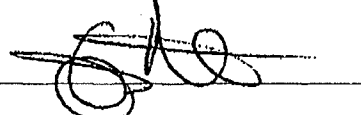
NELSON EDUCATION HOLDINGS LTD.

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:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

|  |  |
|--|--|
| <b>Aggregate Principal amount of Loans held by the Consenting First Lien Lender pursuant to the First Lien Credit Agreement</b>                      |  |
| <b>Aggregate Principal amount of Second Lien Loans held by the Consenting First Lien Lender pursuant to the Second Lien Credit Agreement, if any</b> |  |



**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**

|   |   |
|---|---|
| <b>BORROWER:</b>                                  | Nelson Education Ltd. (the " <b>Borrower</b> ")   |
| <b>HOLDINGS:</b>                                  | Nelson Education Holdings Ltd. (" <b>Holdings</b> ")  |
| <b>ADMINISTRATIVE AGENT AND COLLATERAL AGENT:</b> | Wilmington Trust, National Association (in such capacity, the " <b>Agent</b> ")   |
| <b>LENDERS:</b>                                   | Lenders under the Existing First Lien Credit Agreement (the " <b>First Lien Lenders</b> ")  |
| <b>FIRST LIEN STEERING COMMITTEE:</b>             | The ad hoc committee of First Lien Lenders represented by Willkie Farr & Gallagher LLP and Bennett Jones LLP (the " <b>First Lien Steering Committee</b> ") |
| <b>NEWCO:</b>                                     | A newly incorporated company (" <b>Newco</b> ") to be organized in a jurisdiction acceptable to the First Lien Steering Committee <sup>1</sup>              |

<sup>1</sup> 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<sup>2/3</sup>% 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**

|   |  |
|---|--|
| <b>NEWCO FIRST LIEN TERM FACILITY:</b>        | US\$200 million first lien term facility (the “ <b>Newco First Lien Term Facility</b> ”). A new first lien credit agreement will be entered into with respect to the Newco First Lien Term Facility (the “ <b>Newco First Lien Credit Agreement</b> ”).  |
| <b>MATURITY:</b>                              | 5 years from the Effective Date or January 15, 2020, whichever is later.   |
| <b>INTEREST RATE:</b>                         | 10% cash payable quarterly in arrears, or, at Newco's option with respect to any interest payment, 8% cash and 4% PIK.   |
| <b>BORROWER:</b>                              | Newco.   |
| <b>GUARANTORS:</b>                            | All existing and future subsidiaries of Newco.   |
| <b>SECURITY:</b>                              | First lien security interest in substantially all assets of Newco and the Guarantors.  |
| <b>AGENT:</b>                                 | The Agent or such other agent acceptable to the First Lien Steering Committee (in such capacity, the “ <b>New Agent</b> ”).  |
| <b>RANKING:</b>                               | First lien senior secured, subject to the Revolving Facility (as defined below) (if any).  |
| <b>MANDATORY PREPAYMENTS:</b>                 | 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. |
| <b>VOLUNTARY PREPAYMENTS AND REPURCHASES:</b> | Voluntary prepayments allowed at any time as under the Existing First Lien Credit Agreement.   |
| <b>REPRESENTATIONS AND WARRANTIES:</b>        | Substantially the same as under the Existing First Lien Credit Agreement, subject to amendment for current status.   |
| <b>AFFIRMATIVE COVENANTS:</b>                 | 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.   |
| <b>NEGATIVE COVENANTS:</b>                    | 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   |

- 5 -

|  |  |
|--|--|
|  | Senior Secured Leverage Ratio.   |
| <b>FINANCIAL COVENANTS:</b>                | None.  |
| <b>UNRESTRICTED<br/>SUBSIDIARIES:</b>      | None.  |
| <b>EVENTS OF DEFAULT:</b>                  | 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.   |
| <b>DEFAULT RATE:</b>                       | 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.  |
| <b>REPORTING:</b>                          | 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. |
| <b>VOTING:</b>                             | Substantially the same as under the Existing First Lien Credit Agreement.  |
| <b>COST AND YIELD<br/>PROTECTION:</b>      | 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).   |
| <b>ASSIGNMENTS AND<br/>PARTICIPATIONS:</b> | Substantially the same as under the Existing First Lien Credit Agreement.  |
| <b>EXPENSES AND<br/>INDEMNIFICATION:</b>   | Substantially the same as under the Existing First Lien Credit Agreement.  |
| <b>OTHER TERMS:</b>                        | Other terms generally consistent with the Existing First Lien Credit Agreement and as agreed to by the Borrower and the First Lien Steering Committee.   |
| <b>GOVERNING LAW AND<br/>FORUM:</b>        | New York.  |

#### **V. OTHER RECAPITALIZATION TRANSACTION TERMS**

|                        |   |
|------------------------|---|
| <b>EFFECTIVE DATE:</b> | 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 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

- 7 -

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

- 11 -

to First Lien Lenders holding at least 66<sup>2/3</sup>% 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 SISF, 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**

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September 10, 2014

## **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’ 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.

- 2 -

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<br>(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<br>(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:

- 5 -

- (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

- 6 -

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 662/3% 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 SISF 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.

- 7 -

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.

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## 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:

---

---

---

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|  |  |
|--|--|
| <b>Aggregate Principal amount of Loans held by the Consenting First Lien Lender pursuant to the First Lien Credit Agreement</b>                      |  |
| <b>Aggregate Principal amount of Second Lien Loans held by the Consenting First Lien Lender pursuant to the Second Lien Credit Agreement, if any</b> |  |

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 B**

**THIS IS EXHIBIT "B" REFERRED TO IN THE  
AFFIDAVIT OF DEAN MULLETT  
SWORN BEFORE ME  
ON THIS 11TH DAY OF MAY, 2015**



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**A COMMISSIONER FOR TAKING AFFIDAVITS**

**ASSET PURCHASE AGREEMENT**

by and between

NELSON EDUCATION LTD.,

as Seller

– and –

682534 N.B. Inc.,

as Purchaser

Dated as of [•], 2015

## TABLE OF CONTENTS

|              |   | <u>Page</u> |
|--------------|---|-------------|
| ARTICLE I    | DEFINITIONS   | 2           |
| Section 1.1  | Recitals  | 2           |
| Section 1.2  | Definitions   | 2           |
| Section 1.3  | Other Terms   | 12          |
| Section 1.4  | Interpretation  | 13          |
| Section 1.5  | Time  | 13          |
| ARTICLE II   | AGREEMENT OF PURCHASE AND SALE  | 14          |
| Section 2.1  | Purchase and Sale of Assets   | 14          |
| Section 2.2  | Excluded Assets   | 15          |
| Section 2.3  | Condition of Conveyance   | 16          |
| Section 2.4  | Consideration   | 17          |
| Section 2.5  | Assumption of Closing Date Assumed Liabilities                          | 17          |
| Section 2.6  | Assumption of Obligations   | 18          |
| Section 2.7  | Excluded Liabilities  | 18          |
| Section 2.8  | Procedures for Assumption of Agreements; Delayed Transfer of Assets     | 19          |
| Section 2.9  | Additional and Eliminated Assumed Contracts                             | 21          |
| ARTICLE III  | COURT APPROVAL  | 22          |
| Section 3.1  | The Hearing and the Approval and Vesting Order                          | 22          |
| ARTICLE IV   | REPRESENTATIONS AND WARRANTIES  | 22          |
| Section 4.1  | Representations and Warranties of the Seller                            | 22          |
| Section 4.2  | Representations and Warranties of the Purchaser                         | 35          |
| ARTICLE V    | COVENANTS   | 36          |
| Section 5.1  | Interim Covenants of the Seller   | 36          |
| Section 5.2  | Closing Documents   | 39          |
| Section 5.3  | Matters Requiring Notice  | 39          |
| Section 5.4  | Access to Information/Confidentiality/Preservation of Books and Records | 39          |
| Section 5.5  | Use of Name   | 40          |
| Section 5.6  | Transition Services/Access of Seller to Records                         | 41          |
| Section 5.7  | Disclaimer of Warranties  | 41          |
| Section 5.8  | Required Approvals  | 42          |
| Section 5.9  | Publicity   | 43          |
| Section 5.10 | Certain Matters Relating to Canadian Employees                          | 43          |
| Section 5.11 | Insurance Obligations   | 45          |
| Section 5.12 | Release   | 45          |
| Section 5.13 | Service List  | 46          |

|              |   |    |
|--------------|---|----|
| ARTICLE VI   | CONDITIONS TO CLOSING                           | 46 |
| Section 6.1  | Conditions for the Purchaser                    | 46 |
| Section 6.2  | Conditions for the Seller                       | 48 |
| ARTICLE VII  | CLOSING   | 49 |
| Section 7.1  | Closing Arrangements                            | 49 |
| Section 7.2  | Seller's Deliveries                             | 49 |
| Section 7.3  | Purchaser's Deliveries                          | 50 |
| Section 7.4  | Tax Matters                                     | 50 |
| Section 7.5  | Cash Reserve                                    | 51 |
| Section 7.6  | Post-Closing Deliveries                         | 51 |
| ARTICLE VIII | TERMINATION OF AGREEMENT                        | 51 |
| Section 8.1  | Termination                                     | 51 |
| Section 8.2  | Effect of Termination                           | 53 |
| Section 8.3  | Expense Reimbursement; Seller Remedies          | 53 |
| ARTICLE IX   | MISCELLANEOUS                                   | 54 |
| Section 9.1  | Survival  | 54 |
| Section 9.2  | Non-Recourse                                    | 54 |
| Section 9.3  | Relationship of the Parties                     | 54 |
| Section 9.4  | Amendment of Agreement                          | 54 |
| Section 9.5  | Notices   | 54 |
| Section 9.6  | Fees and Expenses                               | 56 |
| Section 9.7  | Governing Law; Jurisdiction; Service of Process | 56 |
| Section 9.8  | Further Assurances                              | 56 |
| Section 9.9  | Specific Performance                            | 56 |
| Section 9.10 | Entire Agreement                                | 57 |
| Section 9.11 | Waiver  | 57 |
| Section 9.12 | Assignment                                      | 57 |
| Section 9.13 | Successors and Assigns                          | 57 |
| Section 9.14 | No Third-Party Beneficiaries                    | 57 |
| Section 9.15 | Severability of Provisions                      | 57 |
| Section 9.16 | Counterparts                                    | 58 |

#### Exhibits

- A Form of Approval and Vesting Order
- B Assignment and Assumption Agreement
- C Assignment of Intangible Property
- D Bill of Sale

- E Initial Order
- F Newco First Lien Credit Agreement
- G Payment and Settlement Agreement



## ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this “Agreement”), dated as of [•], 2015, is by and between Nelson Education Ltd. (the “Seller”), a corporation organized under the laws of Canada and a direct wholly owned subsidiary of Nelson Education Holdings Ltd. (“Nelson Holdings”), and 682534 N.B. Inc., a corporation organized under the laws of the Province of New Brunswick (the “Purchaser”). The Seller and the Purchaser are referred to individually herein as a “Party” and collectively as the “Parties.”

### RECITALS:

WHEREAS, the Seller is indebted to the Agent (as defined below) and the Secured Lenders (as defined below) 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) under the First Lien Credit Agreement (as defined below) and related security documents;

WHEREAS, the First Lien Credit Agreement matured on July 3, 2014, and the Seller was unable to repay the Agent and Secured Lenders on such date or thereafter;

WHEREAS, after extensive arm’s length negotiations, the Seller and Nelson Holdings entered into that certain Support Agreement dated as of September 10, 2014 (the “Support Agreement”) with the Agent and the Consenting First Lien Lenders (as defined in the Support Agreement);

WHEREAS, pursuant to the Support Agreement, the Seller conducted a comprehensive sale and investment solicitation process (“SISP”) for the purchase and sale of the business and assets of, or an investment in, the Seller (as defined below);

WHEREAS, no Superior Offer (as defined in the Support Agreement) was received and completed by the Seller as a result of or in accordance with the SISP;

WHEREAS, based on the results of the SISP, the Parties agree that the fair market value of the Seller’s assets is less than the amounts owing by the Seller to the Agent and the Secured Lenders under the First Lien Credit Agreement; and

WHEREAS, in accordance with the Support Agreement, the Seller desires to sell, transfer and assign, and the Purchaser desires to purchase and assume, substantially all of the Seller’s assets used in connection with the Seller’s business, and the Purchaser further desires to assume certain liabilities in connection therewith, upon the terms and subject to the conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

## ARTICLE I

### DEFINITIONS

Section 1.1 Recitals. The recitals set forth above are incorporated by reference and are expressly made part of this Agreement.

Section 1.2 Definitions. The following definitions shall apply to and constitute part of this Agreement, the Disclosure Letter, the Purchaser Schedule and all Exhibits attached hereto:

“Accounts Receivable” means any and all accounts receivable, notes receivable, cheques, similar instruments, and other amounts receivable owed to the Seller for goods and services rendered in the operation of the business of the Seller together with all security or other collateral therefor and any interest for unpaid financing charges accrued thereon, excluding any intercompany receivable.

“Action” means any claim (as defined in the CCAA), action, complaint, suit, litigation, arbitration, appeal, petition, inquiry, hearing, order, decree, legal proceeding, investigation or other legal dispute, whether civil, criminal, administrative or otherwise, at law or in equity, by or before any Governmental Authority.

“Affiliate” means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. For purposes of this definition, “control” (including, with correlative meaning, the terms “controlling” and “controlled”) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities, by contract or otherwise.

“Agent” means Wilmington Trust, N.A., in its capacity as the successor administrative agent and collateral agent under the First Lien Credit Agreement, or any successor thereto.

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

“Allocation Schedule” has the meaning set forth in Section 7.4(d).

“Approval and Vesting Order” means a final, non-appealable order of the Court, substantially in the form attached hereto as Exhibit A, or as otherwise may be agreed by the Majority Initial Consenting First Lien Lenders in their sole discretion on written notice thereof to the Seller and the Purchaser, that has not been stayed, vacated, or stayed pending appeal.

“Assignment and Assumption Agreement” means an agreement providing for the assignment by the Seller of the Seller’s right, title, and interest in and to the Purchased Assets and the assumption by the Purchaser or one or more Purchaser Designees of the Assumed Liabilities, substantially in the form attached hereto as Exhibit B.

“Assignment of Intangible Property” means an assignment of intangible property to transfer the Purchased Assets that are intangible property to the Purchaser or one or more

Purchaser Designees free and clear of all Encumbrances (other than Permitted Encumbrances), substantially in the form attached hereto as Exhibit C.

“Assumed Contracts” means, collectively, (i) the Contracts that shall be set forth on Section 1.2(a) of the Purchaser Schedule by the Designation Deadline and (ii) the Non-Specified Contracts, other than the Contracts that shall be set forth on Section 1.2(b) of the Purchaser Schedule by the Designation Deadline.

“Assumed Liabilities” means the Closing Date Assumed Liabilities and Post-Closing Obligations.

“Audited Financial Statements” means the audited consolidated balance sheets (including the consolidating balance sheet), and the related consolidated statements of operations, consolidated statement of changes in shareholders’ equity, and consolidated statement of cash flows, of the Seller as of and for the fiscal years ended March 31, 2014, and June 30, 2013, together with the notes thereto.

“Bill of Sale” means the bill of sale to transfer the Purchased Assets to the Purchaser and/or, as applicable, one or more Purchaser Designees, free and clear of all Encumbrances (other than Permitted Encumbrances), substantially in the form attached hereto as Exhibit D.

“Books and Records” means all documents used by the Seller and with respect to which the Seller has possession or a right to possession of, in connection with, or relating to, the Purchased Assets, the Assumed Liabilities, or the operations of the Seller’s business, including all files, data, reports, plans, mailing lists, supplier lists, customer lists, price lists, Financial Records, marketing information and procedures, advertising and promotional materials, equipment records, warranty information, environmental site assessments, building condition reports, surveys, records of operations, standard forms of documents, manuals of operations or business procedures, and other similar procedures (including all discs, tapes, and other media-storage data containing such information), other than Retained Books and Records.

“Business Day” means any day other than a Saturday, Sunday, or other day on which commercial banks in New York City, New York or Toronto, Ontario are authorized or obligated to close under applicable Laws.

“Cash and Cash Equivalents” means all of the Seller’s cash (for certainty, other than cash held in escrow with Valiant Trust payable to certain Employees pursuant to employee retention arrangements) and cash equivalents (including petty cash and cheques received prior to the close of business on the Closing Date), checking account balances, marketable securities, certificates of deposits, time deposits, bankers’ acceptances, commercial paper and government securities and other cash equivalents, other than the Cash Reserve.

“Cash Reserve” means the Seller’s cash in an amount of \$1,150,000, or such other amount as may be agreed to by the Seller and the Majority Initial Consenting First Lien Lenders prior to the Closing Date.

“CCAA” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-35.

“CCAA Proceedings” means the proceedings to be commenced by the Seller pursuant to the CCAA.

“Claims” means all rights, claims, actions, refunds, causes of action, choses in action, suits or proceedings, including rights to refunds and rights of recovery, setoff, recoupment, indemnity or contribution and other similar rights (known and unknown, matured and unmatured, accrued or contingent, regardless of whether such rights are currently exercisable).

“Closing” has the meaning set forth in Section 7.1.

“Closing Date” has the meaning set forth in Section 7.1.

“Closing Date Assumed Liabilities” has the meaning set forth in Section 2.5.

“Closing Date Balance Sheet” means a balance sheet for the Seller as of the day prior to the Closing Date prepared in a manner consistent with the Most Recent Balance Sheet.

“Closing Documents” means any agreements, instruments, or other documents to be delivered at the Closing pursuant to Section 7.2 or Section 7.3.

“Commissioner” means the Commissioner of Competition appointed under the Competition Act.

“Competition Act” means the Competition Act (Canada).

“Competition Act Approval” means either:

(a) the Commissioner shall have issued an advance ruling certificate under Section 102 of the Competition Act with respect to the transactions contemplated by this Agreement; or

(b) each of the Parties shall have filed all notices and information required under Part IX of the Competition Act and the applicable waiting periods shall have expired; or

(c) the obligation to give the requisite notice has been waived pursuant to subsection 113(c) of the Competition Act; and,

in the case of (b) or (c), the Commissioner or his delegate shall have advised the Purchaser in writing that he is of the view that there are not sufficient grounds to initiate proceedings before the Competition Tribunal under the merger provisions of the Competition

Act in respect of the transactions contemplated herein and such advice does not contain any conditions (other than the usual caveat that such proceedings may be initiated at any time up to one (1) year after the transactions have been substantially completed) that are not satisfactory to the Purchaser acting reasonably.

“Competition Tribunal” has the meaning ascribed to the term ‘tribunal’ in section 2 of the Competition Tribunal Act (Canada).

“Confidentiality Agreement” means those certain confidentiality agreements set forth in Section 12(b) of the Support Agreement.

“Confidential Information” has the meaning set forth in Section 5.4(a).

“Consent” means any consent, approval, concession, grant, waiver, exemption, license, certificate, variance, registration, permit, order, or other authorization of or notice of any Person.

“Contracts” means any contract, agreement, understanding, arrangement, license or lease entered into by the Seller (whether oral or written) or affecting or related to any of the Seller’s business, the Purchased Assets or the Assumed Liabilities or by which the Seller is bound or by which any property of the Seller is subject to an Encumbrance.

“Court” means the Ontario Superior Court of Justice (Commercial List).

“Cure Costs” has the meaning set forth in Section 2.8(a)(i).

“Designation Deadline” has the meaning set forth in Section 2.9.

“Disclosure Letter” has the meaning set forth in Section 4.1.

“Employee Benefit Plans” means each employee benefit plan and all other compensation and benefits plans, policies, programs, arrangements or payroll practices, including each share purchase, share option, restricted share, profit sharing, pension, savings, retirement, retirement savings, severance, retention, employment, consulting, change-of-control, collective bargaining, bonus, incentive, deferred compensation, disability or other insurance, health, dental, or similar benefits, supplemental unemployment benefit, employee loan, fringe benefit and other benefit plan, agreement, program, policy, commitment or other arrangement (including any related funding mechanism now in effect or required in the future) whether formal or informal, oral or written, funded or unfunded, registered or unregistered, in each case, that is sponsored, maintained, contributed or required to be contributed to by the Seller, under which any Employees participate or are eligible to participate, or under which the Seller has any current or potential Liability, including any Pension Plan.

“Employees” means each employee of the Seller.

“Encumbrances” means all mortgages, pledges, charges, liens, debentures, trust deeds, Claims, assignments by way of security or otherwise, security interests, conditional sales contracts or other title retention agreements, security created under the *Bank Act* (Canada),

rights of first refusal, or similar interests or instruments charging or creating a security interest in the Purchased Assets or any part thereof or interest therein, and any agreements, leases, licenses, occupancy agreements, options, easements, rights of way, restrictions, executions, or other encumbrances (including notices or other registrations in respect of any of the foregoing) affecting title to the Purchased Assets or any part thereof or interest therein.

“Environmental Laws” means all applicable Laws relating to pollution or protection of human health or the environment (including ambient air, water, surface water, groundwater, land surface, soil, or subsurface) or natural resources, including applicable Laws relating to the storage, transfer, transportation, investigation, cleanup, treatment, or use of, or release or threatened release into the environment of, any Hazardous Substances.

“Environmental Permits” means all material Permits issued pursuant to Environmental Laws.

“ETA” means the *Excise Tax Act* (Canada).

“Excluded Assets” has the meaning set forth in Section 2.2(a).

“Excluded Contracts” means the Contracts, other than the Assumed Contracts.

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

“Filing Date” means the date that the CCAA Proceedings are commenced.

“final, non-appealable” (including, with correlative meaning, the term “final and non-appealable”) means, with respect to any Order or other action of a Governmental Authority, an Order or other action: (a) as to which no appeal, notice of appeal, motion for leave to appeal, motion to amend or make additional findings of fact, motion to alter or amend judgment, motion for rehearing, or motion for new trial has been timely filed or, if any of the foregoing has been timely filed, has been disposed of in a manner that upholds and affirms the subject order in all material respects without the possibility for further appeal or rehearing thereon; and (b) as to which the time for instituting or filing an appeal, motion for rehearing, or motion for new trial shall have expired. For greater certainty, the time at which an Order or other action of a Governmental Authority becomes final and non-appealable excludes any time period after those set out in (a) or (b) that may begin as a result of a proceeding initiated to vacate, set aside, vary, or provide relief from a final Order or other action of a Governmental Authority.

“Financial Records” means all books of account and other financial data and information of the Seller and all such records, data, and information stored electronically, digitally, or on computer-related media.

“Financial Statements” means, collectively, the Audited Financial Statements and the Unaudited Financial Statements.

“First Lien Credit Agreement” means the First Lien Credit Agreement, dated as of July 5, 2007, by and among the Seller, Nelson Holdings, Wilmington Trust, N.A., as successor administrative and collateral agent, and the other lenders party thereto.

“GAAP” means Canadian generally accepted accounting principles for private enterprises in effect from time to time.

“Governmental Authority” means any Canadian, foreign, federal, state, provincial, territorial, municipal, or local authority, legislative body, court, government, regulatory agency, self-regulatory organization (including any securities exchange), commission, board, court, bureau, arbitral or other tribunal, or any political or other subdivision, department, or branch of any of the foregoing.

“Hazardous Substances” means any material, substance or waste defined or characterized as hazardous, toxic, a pollutant, or a contaminant under Environmental Laws, including asbestos or any substance containing asbestos, polychlorinated biphenyls, lead paint, and petroleum or petroleum products (including crude oil and any fraction thereof).

“Hearing” means the hearing to be held by the Court to consider the approval of the Transaction and the granting of the Approval and Vesting Order, which shall be on notice to all of the Seller’s secured creditors and such other Persons as the Purchaser may request receive notice.

“Heritage Canada Approval” means the requisite approval of the Minister of Canadian Heritage under the Investment Canada Act with respect to the Transaction.

“Indebtedness” of any Person means, without duplication: (a) all obligations of such Person for borrowed money or advances; (b) all obligations of such Person evidenced by bonds, debentures, notes, loan agreements, or similar instruments; (c) all obligations of such Person under conditional sale or other title retention agreements relating to property purchased by such Person (even though the rights and remedies of the seller or lenders under such agreement in the event of default are limited to repossession or sale of such property); (d) all obligations of such Person issued or assumed as part of the deferred purchase price of property or services; (e) all indebtedness secured by any Encumbrance on property owned or acquired by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not the obligations secured thereby have been assumed; (f) any obligations with respect to bank guarantees; (g) all obligations of such Person for the reimbursement of any obligor in respect of letters of credit, letters of guaranty, bankers’ acceptances, and similar credit transactions; and (h) all contingent obligations of such Person in respect of Indebtedness or obligations of others of the kinds referred to in clauses (a) through (g) above.

“Indemnification Agreements” means the indemnification agreements indemnifying the directors and officers of the Seller, which agreements shall be in form and substance as agreed between the directors and officers of the Seller and the Purchaser as at the date hereof.

“Independent Contractors” has the meaning set forth in Section 4.1(q)(ii).

“Initial Order” means the initial order to be granted by the Court on the Filing Date, substantially in the form attached hereto as Exhibit E, as such order may be amended and restated by the Court from time to time in connection with the CCAA Proceedings, which order shall at all times be in form and substance satisfactory to the Majority Initial Consenting First Lien Lenders.

“Intellectual Property Rights” means trade names, brand names, corporate names, business names, trademarks (including logos), trademark registrations and applications, service marks, service mark registrations and applications, copyrights, copyright registrations and applications, derivative works, moral rights, all rights to use any name or mark, and any related or associated name, internet domain names, URLs, issued patents and pending applications and other patent rights, industrial design registrations, pending applications and other industrial design rights, improvements, trade secrets, proprietary information and know-how, equipment and parts lists and descriptions, instruction manuals, inventions, inventors’ notes, research data, blueprints, drawings and designs, formulae, processes, computer software (including source code, executable code, firmware, data, databases, and technical documentation), internal-use software, and technical manuals and documentation used in connection therewith, technology, and other intellectual property, together with all rights under licenses, registered user agreements, technology transfer agreements, other agreements, or instruments relating to any of the foregoing, and goodwill associated with any of the foregoing, anywhere in the world.

“Investment Canada Act” means the Investment Canada Act (Canada) and the regulations promulgated thereunder.

“Knowledge” means, with respect to the Seller, as of any date, without any personal liability, the actual knowledge, after reasonable inquiry, including of their respective direct reports, of Greg Nordal and Michael Andrews, as of such date.

“Labour Representatives” has the meaning set out in Section 4.1(q)(xiv).

“Laws” means all statutes, laws (including common law), regulations, rules, ordinances, codes, and other requirements of any Governmental Authority, including any Orders.

“Liability” means any debt, liability, commitment, or other obligation (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or not yet due) and including all costs, fees and expenses relating thereto.

“Majority Initial Consenting First Lien Lenders” has the meaning set forth in the Support Agreement.

“Material Adverse Effect” means any change, effect, event, occurrence, state of facts, or development that, individually or in the aggregate: (a) has been or could be reasonably



likely to be material and adverse to the assets, liabilities, properties, business, financial condition, or capitalization of the Purchased Assets or the Assumed Liabilities; provided, however, that none of the following shall be taken into account in determining whether there has been, or could be, a Material Adverse Effect under this subclause (a): (i) changes in general economic or financial market conditions to the extent that such changes do not have a disproportionate impact on the Purchased Assets or the Assumed Liabilities relative to other companies in the publishing industry, (ii) changes affecting the industry in which the Seller operates (including changes in prices, costs of materials, labor, or shipping, general market prices, or regulatory changes in any such industry) to the extent that such changes do not have a disproportionate impact on the Purchased Assets or the Assumed Liabilities relative to other companies in the publishing industry, (iii) the outbreak or escalation of hostilities, the declaration of war, the occurrence of any calamity or natural disaster, or acts of terrorism, (iv) changes in any Law or GAAP or interpretation thereof after the date hereof, (v) any event as to which the Purchaser has provided written consent hereunder, (vi) the announcement of this Agreement and the Transaction, (vii) compliance by the Seller with the terms of this Agreement or the Approval and Vesting Order, and each other agreement or document to be executed, filed, or delivered in connection herewith and therewith including the filing of the CCAA Proceedings (except that this subclause (vii) shall not apply to the representations set forth in Section 4.1(b)(ii) or Section 4.1(r)), or (viii) any failure by the Seller to meet any projections or estimates (including internal projections or estimates) of revenues, earnings, or performance for any period (provided, however, that the underlying cause for such failure may be considered in determining whether there may be a Material Adverse Effect); provided that this subclause (viii) shall not limit in any way the next subclause of this definition; or (b) has prevented, materially delayed, or materially impaired, or could be reasonably likely to prevent, materially delay, or materially impair, the ability of the Seller to consummate the Transaction or to perform the Seller's obligations hereunder.

"Material Contracts" has the meaning set forth in Section 4.1(k)(i).

"Monitor" means Alvarez & Marsal Canada ULC, in its capacity as Court-appointed Monitor of the Seller pursuant to the Initial Order.

"Most Recent Balance Sheet" means a balance sheet for the Seller as of the Most Recent Balance Sheet Date prepared in accordance with GAAP, which balance sheet shall be in form and substance acceptable to the Majority Initial Consenting First Lien Lenders.

"Most Recent Balance Sheet Date" means March 31, 2015.

"Nelson Holdings" has the meaning set forth in the preamble.

"Newco First Lien Credit Agreement" has the meaning set forth in Section 2.4(b)(ii).

"Non-Specified Contracts" means, collectively, each Contract between the Seller and an editor, reviewer, author, or other Person that, together with all other Contracts between

the Seller and such editor, reviewer, author, or other Person, involved aggregate payments of less than \$100,000 in respect of the year ended December 31, 2014.

“Notice” means any notice, request, consent, acceptance, waiver, or other communication required or permitted to be given pursuant to this Agreement.

“Order” means any order, writ, judgment, injunction, decree, stipulation, determination, decision, verdict, ruling, subpoena, or award entered by or with any Governmental Authority (whether temporary, preliminary, or permanent).

“Outside Date” means June 2, 2015, or such later date as may be agreed to by the Majority Initial Consenting First Lien Lenders and the Seller.

“Owned Real Property” has the meaning set forth in Section 4.1(j)(i).

“Party” or “Parties” has the meaning set forth in the preamble.

“Payment and Settlement Agreement” means the agreement to be entered into between the Seller and the Supplemental Agent providing for the payment and settlement of the obligations of the Seller under the First Lien Credit Agreement following the Closing, substantially in the form attached hereto as Exhibit G.

“Pension Plan” means any “registered pension plan,” as defined under Section 248(1) of the Tax Act and registered under any applicable federal or provincial pension legislation and sponsored, maintained, or contributed to by the Seller for its Employees or former Employees, but does not include the Canada Pension Plan or the Quebec Pension Plan as maintained by the Government of Canada or the Province of Quebec, respectively.

“Permits” has the meaning set forth in Section 4.1(f)(iii).

“Permitted Encumbrances” means those Encumbrances set forth on Section 1.2(c) of the Purchaser Schedule.

“Person” means an individual, partnership, limited liability company, corporation, trust, joint venture, association, joint stock company, unincorporated organization, Governmental Authority, or other entity, and the successors and assigns thereof or the heirs, executors, administrators, or other legal representatives of an individual.

“Personal Property” means all furniture, furnishings, fixtures, equipment, appliances, tools, motor vehicles, parts, machinery, supplies, signs and signage, inventory (including inventory held at any location controlled by the Seller and any inventory previously purchased and in transit to the Seller), and all other tangible personal property used in the operation and maintenance of the Seller’s business.

“Post-Closing Obligations” has the meaning set forth in Section 2.6.

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

“Purchase Price” has the meaning set forth in Section 2.4(a).

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

“Purchased Intellectual Property” has the meaning set forth in Section 2.1(o).

“Purchaser” has the meaning set forth in the preamble.

“Purchaser Designee” means one or more Affiliates of the Purchaser designated by the Purchaser to the Seller prior to the Closing.

“Purchaser Parties” has the meaning set forth in Section 8.3(b).

“Purchaser Preferred Shares” has the meaning set forth in Section 2.4(b)(iii).

“Purchaser Schedule” means the schedule delivered by the Purchaser to the Seller on the date of this Agreement and updated after the date of this Agreement in accordance with Section 2.9.

“Purchaser Termination Fee” means an amount of US\$1,000,000.00.

“Released Parties” has the meaning set forth in Section 5.12.

“Representative” means, with respect to a particular Person, any director, officer, manager, partner, member, employee, agent, consultant, advisor, or other representative of such Person, including legal counsel, accountants, and financial advisors.

“Retained Books and Records” means (a) any documents (including books and records) that the Seller is required by applicable Law to retain, (b) corporate seals, minute books, charter documents, corporate record books, original tax and financial records, and such other books and records as pertain to the organization, existence, actions, or share capitalization of the Seller, and (c) any books and records or information related exclusively to any of the Excluded Assets or Excluded Liabilities.

“Second Lien Credit Agreement” means the Second Lien Credit Agreement, dated as of July 5, 2007, by and among the Seller, Nelson Holdings, Royal Bank of Canada, as administrative agent and collateral agent, and the other lenders party thereto.

“Secured Lenders” means the lenders from time to time under the First Lien Credit Agreement.

“Seller” has the meaning set forth in the preamble.

“Seller Broker Fee” has the meaning set forth in Section 4.1(l).

“Service Providers” means the Seller’s current or former directors, officers, Employees, or Independent Contractors.

“SISP” has the meaning set forth in the recitals.

“Supplemental Agent” means Cortland Capital Market Services LLC, in its capacity as the as supplemental administrative agent under the First Lien Credit Agreement, or any successor thereto.

“Support Agreement” has the meaning set forth in the recitals.

“Tax” or “Taxes” includes all present and future taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and other charges of any nature imposed by any Governmental Authority, including income, capital, withholding, consumption, sales, use, transfer, goods and services, harmonized or other value added, excise, customs, anti-dumping, countervail, net worth, stamp, registration, franchise, payroll, employment health, education, business, school, property, local improvement, development, education development and occupation taxes, surtaxes, duties, levies, imposts rates, fees, assessments, withholdings, dues and charges, and other assessments or similar charges in the nature of a tax, including Canada Pension Plan and provincial pension plan contributions, employment insurance and unemployment insurance premiums and workers compensation premiums, together with all fines, interest, penalties on or in respect of, or in lieu of or for non-collection of, those taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and other changes, whether disputed or not.

“Tax Act” means the *Income Tax Act* (Canada).

“Tax Return” or “Tax Returns” means all returns, declarations of estimated tax payments, reports, estimates, information returns, and statements, including any related or supporting information with respect to any of the foregoing, filed or required to be filed with any taxing authority.

“Term Note” has the meaning ascribed to that term in the Newco First Lien Credit Agreement.

“Title Company” means a title insurance company licensed to do business in Ontario.

“Transaction” means the transactions contemplated herein to be consummated at the Closing, including the purchase and sale of the Purchased Assets and the delegation and assumption of the Assumed Liabilities provided for in this Agreement.

“Transaction Expenses” means and includes reasonably incurred, documented, out-of-pocket professional costs, fees, and expenses incurred by the Purchaser or its Affiliates in connection with evaluating, negotiating, documenting, and performing the Transaction (including Willkie Farr & Gallagher LLP, Bennett Jones LLP and AlixPartners).

“Transfer Costs” has the meaning set forth in Section 7.4(a).

“Transfer Taxes” means any transfer, sales, use, registration, and other such taxes, any conveyance fees, any recording charges, and any other similar fees and charges (including penalties and interest in respect thereof).

“Transition Services” has the meaning set forth in Section 5.6(a).

“Transferred Employee” has the meaning set forth in Section 5.10(b).

“Unaudited Financial Statements” means the unaudited consolidated balance sheets, and the related unaudited consolidated statements of operations, consolidated statement of changes in shareholders’ equity, and consolidated statement of cash flows, of the Seller as of and for the eleven (11)-month period ended February 28, 2015.

Section 1.3 Other Terms. As used in this Agreement, any reference to any federal, state, local, provincial, or foreign law, including any applicable Law, will be deemed also to refer to all rules and regulations promulgated thereunder and all amendments or modifications thereto, unless the context requires otherwise. The words “include,” “includes,” and “including” will be deemed to be followed by “without limitation.” Pronouns in masculine, feminine, or neuter gender will be construed to include any other gender, and words in the singular form will be construed to include the plural and vice versa, unless the context otherwise requires. References to “this Agreement” shall include all Exhibits, Schedules, and other agreements, instruments, or other documents attached hereto. The words “herein,” “hereof,” “hereby,” “hereunder,” and words of similar import refer to this Agreement as a whole and not to any particular subdivision, unless expressly so limited. References in this Agreement to Articles, Sections, Schedules, or Exhibits are to Articles or Sections of, or Schedules or Exhibits to, this Agreement, except to the extent otherwise specified herein. References to the consent or approval of any Party or the Majority Initial Consenting First Lien Lenders shall mean the written consent or approval of such Party or the Majority Initial Consenting First Lien Lenders, which shall not be unreasonably withheld, conditioned, or delayed, except to the extent otherwise specified herein. For purposes of this Agreement, the Seller 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, as applicable, 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 Secured Lender for the purpose of determining whether such Secured Lender has agreed, waived, consented to, or approved a particular matter, and the principal amount of loans held by such Secured Lender under the First Lien Credit Agreement. All terms defined in this Agreement shall have the defined meanings when used in any certificate or other document made or delivered pursuant hereto, unless otherwise defined therein. Any agreement, instrument, or statute defined or referred to herein shall mean such agreement, instrument, or statute, as from time to time amended, modified, or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes and references to all attachments thereto and instruments incorporated therein. The headings of the sections, paragraphs, and subsections of this Agreement are inserted for convenience only and are not part of this Agreement and do not in any way limit or modify the provisions of this Agreement and shall not affect the interpretation hereof. Unless otherwise specified herein,

payments that are required to be made under this Agreement shall be paid by wire transfer of immediately available funds to an account designated in advance by the Party entitled to receive such payment. All references to “dollars” or “\$” in this Agreement shall mean Canadian dollars, and all references to “US\$” in this Agreement shall mean U.S. dollars.

Section 1.4 Interpretation. The Parties have participated jointly in the negotiation and drafting of this Agreement. If an ambiguity or question of intent or interpretation arises, this Agreement will be construed as if drafted jointly by the Parties hereto and no presumption or burden of proof will arise favoring or disfavoring any Party hereto because of the authorship of any provision of this Agreement.

Section 1.5 Time. Except as expressly set out in this Agreement, the computation of any period of time referred to in this Agreement shall exclude the first day and include the last day of such period. If the time limited for the performance or completion of any matter under this Agreement expires or falls on a day that is not a Business Day, the time so limited shall extend to the next following Business Day. Whenever action must be taken (including the giving of notice, the delivery of documents, or the funding of money) under this Agreement, prior to the expiration of, by no later than, or on a particular date, unless otherwise expressly provided in this Agreement, such action must be completed by 5:00 p.m., New York City time, on such date (except for the filing of papers with the Court or the entry of any Order by the Court, which must be completed on such date by the deadline set forth in the rules of the Court). The time limit for performing or completing any matter under this Agreement may be extended or abridged by an agreement in writing by the Parties. All references herein to time are references to New York City time, unless otherwise specified herein.

## ARTICLE II

### AGREEMENT OF PURCHASE AND SALE

Section 2.1 Purchase and Sale of Assets. The Seller hereby agrees to sell, transfer, assign, convey, and deliver to the Purchaser and/or, as applicable, one or more Purchaser Designees, at the Closing, and the Purchaser hereby agrees to purchase, acquire, and assume, or cause one or more Purchaser Designees to purchase, acquire, and assume, from the Seller at the Closing, upon the terms and subject to the conditions of this Agreement, all right, title, and interest of the Seller of any nature whatsoever in all of the Seller’s properties, interests, rights, and assets, other than the Excluded Assets, free and clear of any and all Encumbrances of any and every kind, nature, and description (other than Permitted Encumbrances) (collectively, the “Purchased Assets”), including the following:

- (a) the Assumed Contracts and all rights thereunder;
- (b) the Owned Real Property and all rights thereunder, together with all improvements, fixtures and other appurtenances thereto and rights in respect thereof;
- (c) all Accounts Receivable;

(d) any Cash and Cash Equivalents, whether on hand, in transit to the Seller on the Closing Date or in banks or other financial institutions, and all security entitlements, securities accounts, commodity contracts and commodity accounts;

(e) all deposits, prepaid expenses, advances, advance payments, prepayments, deferred charges, or rebates in favor of the Seller, including (i) security deposits with third-party suppliers, vendors or utility or service providers, ad valorem taxes and lease and rental payments, (ii) rebates, (iii) collateral pledged for workers' compensation and (iv) prepayments;

(f) the shares and securities set forth in Section 2.1(f) of the Disclosure Letter;

(g) all Personal Property owned or leased (to the extent of the Seller's leasehold interest therein) by the Seller;

(h) all real property Taxes ("Property Taxes") that are prepaid and any refunds of Taxes;

(i) all advertising, marketing, and promotional materials and all other similar printed or written materials of the Seller;

(j) all Books and Records;

(k) all Permits transferable under applicable Law;

(l) all assets and rights under the Employee Benefit Plans other than any Employee Benefit Plan that is an employment or similar agreement between an Employee and the Seller;

(m) all human resources and other employee-related files and records relating to the Transferred Employees, except to the extent prohibited by Law;

(n) all rights of the Seller under non-disclosure or confidentiality, non-compete, or non-solicitation agreements with employees and agents of the Seller or with third parties;

(o) all Intellectual Property Rights owned by the Seller or used by the Seller, including the name "Nelson Education" and any other name used by the Seller (the "Purchased Intellectual Property");

(p) all goodwill and other intangible assets associated with the business of the Seller;

(q) to the extent assignable or transferable in accordance with the terms and conditions of the applicable insurance policies, applicable Law or the Approval and Vesting Order, (i) all of the Seller's insurance policies and rights and benefits thereunder (including (A) all rights pursuant to and proceeds, condemnation, or expropriation awards or other compensation in respect of loss or damage to any Purchased Asset from such insurance policies and (B) all claims, demands, proceedings and causes of action asserted by the Seller under such

insurance policies relating to any Purchased Asset or Assumed Liability), and (ii) any letters of credit related thereto;

(r) all motor vehicles owned or leased by Seller;

(s) all other assets, inventory of finished goods, raw materials, work-in-progress, properties, and rights used or held for use by the Seller; and

(t) all rights, claims, actions, refunds, causes of action, choses in action, suits, proceedings, rights of recovery, rights of setoff, rights of recoupment, rights of indemnity or contribution, and other similar rights (known and unknown, matured and unmatured, accrued or contingent, regardless of whether such rights are currently exercisable) against any Person, including all warranties, representations, guarantees, indemnities, and other contractual claims (express, implied, or otherwise), to the extent related to the Purchased Assets or the Assumed Liabilities.

#### Section 2.2 Excluded Assets.

(a) Nothing herein contained shall be deemed to sell, transfer, assign, convey, or deliver the Excluded Assets to the Purchaser or any Affiliate of the Purchaser, and the Seller shall retain all right, title, and interest to, in, and under the Excluded Assets, and neither the Purchaser nor any Affiliate of the Purchaser shall have any Liability therefor. "Excluded Assets" shall mean the following assets, properties and rights of the Seller:

(i) any and all rights of the Seller under this Agreement;

(ii) the Cash Reserve;

(iii) the Excluded Contracts and any and all rights thereunder and prepaid assets related thereto;

(iv) any shares, securities, or other interest of the Seller held in any other Person, other than the shares set forth in Section 2.1(f) of the Disclosure Letter;

(v) any asset of the Seller that would constitute Purchased Assets (if owned by the Seller on the Closing Date) that is conveyed or otherwise disposed of during the period from the date of this Agreement until the Closing Date in accordance with the terms of this Agreement (including Section 5.1(f));

(vi) all director and officer insurance policies and any entitlements and any proceeds paid or payable thereunder to or on behalf of the directors and officers of the Seller;

(vii) all rights, claims, actions, refunds, causes of action, choses in action, suits or proceedings, rights of recovery, rights of setoff, rights of recoupment, rights of indemnity or contribution, and other similar rights (known and unknown, matured and unmatured, accrued or contingent, regardless of whether such rights are currently exercisable) against any Person, including all warranties, representations, guarantees,



indemnities, and other contractual claims (express, implied, or otherwise) to the extent related exclusively to the assets, rights, and properties set forth in this Section 2.2(a) or the Excluded Liabilities; and

(viii) Retained Books and Records; provided that the Seller shall use commercially reasonable efforts to provide the Purchaser with a copy (and shall allow the Purchaser to make a copy) of any Retained Books and Records that are related to the Purchased Assets or the Assumed Liabilities.

(b) Notwithstanding anything in this Agreement to the contrary, the Purchaser may, in its sole and absolute discretion, at any time on or prior to the date that is three (3) Business Days before the Closing Date, elect not to acquire any of the assets, properties, and rights of the Seller, and any asset so designated by the Purchaser shall be an Excluded Asset for all purposes hereunder; provided, however, that, with respect to Contracts, such designation shall be made in accordance with Section 2.9.

Section 2.3 Condition of Conveyance. Without limiting the provisions of this Agreement relating to the Assignment and Assumption Agreement or any other provisions of this Agreement relating to sale, transfer, assignment, conveyance, or delivery, the Purchased Assets and the Assumed Liabilities shall be sold, transferred, assigned, conveyed, and delivered by the Seller to the Purchaser and/or, as applicable, one or more Purchaser Designees, by appropriate instruments of transfer, bills of sale, endorsements, assignments, and deeds, in recordable form, by way of Court Order, as appropriate, or as otherwise acceptable to the Purchaser, and free and clear of any and all Encumbrances of any and every kind, nature, and description, other than Permitted Encumbrances.

Section 2.4 Consideration.

(a) The amount payable by the Purchaser for the Purchased Assets (collectively, the “Purchase Price”) shall be equal to the sum of (i) US\$216,000,000 plus (ii) the amount of the Closing Date Assumed Liabilities.

(b) The Purchaser shall satisfy the obligation to pay the Purchase Price to the Seller by:

(i) assuming, at the Closing, the Closing Date Assumed Liabilities;

(ii) entering into, at the Closing, a first lien credit agreement substantially in the form attached hereto as Exhibit F (the “Newco First Lien Credit Agreement”) and issuing, at the Closing, the Term Note to the Seller in a principal amount equal to US\$200,000,000; and

(iii) issuing to the Seller, at the Closing, 1,000 non-voting redeemable/retractable preference shares in the capital stock of the Purchaser (the “Purchaser Preferred Shares”) with an aggregate redemption amount equal to US\$16,000,000.

Section 2.5 Assumption of Closing Date Assumed Liabilities. As partial payment of the Purchase Price, the Purchaser and/or, as applicable, one or more Purchaser Designees shall, effective from and after the Closing Date and to the extent permitted by applicable Law, assume and agree to pay, perform, and discharge, when due, the Closing Date Assumed Liabilities. For purposes of this Agreement, "Closing Date Assumed Liabilities" shall mean only the following Liabilities, to the extent payable on, accruing to, or arising prior to the Closing Date (and to the extent not paid at or prior to the Closing):

(a) (i) all Liabilities, including all ordinary course Liabilities due or accrued payable to clients, vendors, suppliers and customers, included in the Most Recent Balance Sheet, (ii) all trade payables (including, for certainty, customer credit balances) incurred in the ordinary course of business consistent with past practice from the Most Recent Balance Sheet Date to the Closing Date, (iii) all liabilities in respect of Non-Specified Contracts incurred in the ordinary course of business consistent with past practice from the Most Recent Balance Sheet Date to the Closing Date, and (iv) all liabilities in respect of Assumed Contracts (other than Non-Specified Contracts) incurred in the ordinary course of business consistent with past practice from the Most Recent Balance Sheet Date to the Closing Date, subject to Section 2.8(a)(ii);

(b) any Cure Costs in respect of the Assumed Contracts;

(c) the Transfer Costs for which the Purchaser is responsible under Section 7.4;

(d) (i) any Liabilities in respect of the Transferred Employees with respect to salaries or wages payable, benefits, employment insurance, workplace safety and insurance/workers' compensation, Canada Pension Plan, statutory holiday pay, overtime pay, payroll or employer health taxes, commissions, bonuses, employee benefit plan payments or contributions, vacation entitlements, expense reimbursements in respect of the payroll period during which the Closing Date occurs, including all such liabilities and obligations with respect to the Transferred Employees which have been accrued on the books of the Seller up to and including the Closing Date in the ordinary course of business to the extent not payable prior to the Closing Date, and (ii) any Liabilities under key employee retention agreements set forth in Section 2.5(d) of the Disclosure Letter, in an aggregate amount not exceeding the amount set forth in Section 2.5(d) of the Disclosure Letter; and

(e) other than the court-ordered charges made in the CCAA Proceedings, any Liabilities of the Seller that rank senior in priority to the Encumbrances securing the obligations of the Seller to the Secured Lenders.

For avoidance of doubt, the Closing Date Assumed Liabilities shall not include any deferred revenue, regardless of whether such deferred revenue is shown as a liability on the Most Recent Date Balance Sheet or Closing Date Balance Sheet, provided that, for certainty, any obligations relating to deferred revenue in respect of Assumed Contracts shall be Post-Closing Obligations for purposes of this Agreement.

Section 2.6 Assumption of Obligations. In addition to assuming the Closing Date Assumed Liabilities, the Purchaser and/or, as applicable, one or more Purchaser Designees

shall, from and after the Closing Date and to the extent permitted by applicable Law, assume and agree to pay, perform, and discharge, when due, the Post-Closing Obligations. For the avoidance of doubt, the parties hereto agree that the assumption by the Purchaser of the Post-Closing Obligations shall not constitute part of the Purchase Price or consideration payable by the Purchaser for the Purchased Assets. For purposes of this Agreement, “Post-Closing Obligations” shall mean only the following obligations, to the extent arising on or accruing after the Closing:

(a) all obligations of the Seller under the Assumed Contracts and the Employee Benefit Plans assumed pursuant to Section 2.1(l) above;

(b) all obligations with respect to the Seller’s existing customer programs and return policies in the ordinary course of business consistent with past practice;

(c) (i) all obligations in respect of the Transferred Employees with respect to salaries or wages payable, statutory holiday pay, overtime pay, payroll or employer health taxes, commissions, vacation entitlements and expense reimbursements, and (ii) all obligations under key employee retention agreements set forth in Section 2.5(d) of the Disclosure Letter, in an aggregate amount not exceeding the amount set forth in Section 2.5(d) of the Disclosure Letter; and

(d) all obligations of the Seller arising under or in connection with the Purchased Assets.

For the avoidance of doubt, the Post-Closing Obligations shall not include any Liability that is otherwise included in the Closing Date Assumed Liabilities.

Section 2.7 Excluded Liabilities. Notwithstanding anything in this Agreement to the contrary, neither the Purchaser nor any Affiliate of the Purchaser shall assume, or be deemed to have assumed the Excluded Liabilities. “Excluded Liabilities” shall mean the following Liabilities of the Seller:

(a) except as contemplated by Section 2.5 and Section 2.6, all Liabilities of the Seller that (i) are not secured by Encumbrances on any of the assets of the Seller, (ii) are secured by Encumbrances on the assets of the Seller that rank junior to the Encumbrances securing the obligations of the Seller to the Secured Lenders, (iii) are subordinated to the obligations of the Seller to the Secured Lenders, or (iv) are secured by court-ordered charges in the CCAA Proceedings and that are subject to the Cash Reserve;

(b) all Liabilities arising out of Excluded Assets, including the Excluded Contracts;

(c) all Liabilities in respect of Indebtedness of the Seller (including all Liabilities arising under or in connection with the First Lien Credit Agreement and the Second Lien Credit Agreement), other than obligations under the Assumed Contracts and the Assumed Liabilities;

(d) except as contemplated by Section 2.5(a) or Section 2.5(b), any Liability in respect of the Assumed Contracts incurred prior to the Closing Date;

(e) (i) Taxes imposed with respect to the Excluded Assets or the Excluded Liabilities for any taxable period and (ii) pre-Closing income Taxes with respect to the Purchased Assets;

(f) all Liabilities of the Seller under this Agreement;

(g) except as contemplated by Section 2.5(a), Section 2.5(b), Section 2.5(d), Section 2.6(a), and Section 2.6(c), all Liabilities with respect to the Service Providers with respect to any period;

(h) any Liability to Nelson Holdings, to TN Holdings, L.P. or any of their respective shareholders or partners;

(i) except as required under applicable Laws, all Liabilities attributable to, relating to or arising from the period prior to the Closing arising (i) under Environmental Laws or (ii) from any Contract or other arrangement for disposal or treatment of Hazardous Substances, or for the transportation of Hazardous Substances for disposal or treatment, in each case including those Liabilities arising from acts or omissions occurring or conditions in existence prior to the Closing;

(j) any Liability with respect to any legal, accounting audit, financial advisory, and investment banking fees, Seller Broker Fee and any other expenses incurred by the Seller, including with respect to the transactions contemplated by this Agreement or the CCAA Proceedings (including fees and expenses that are subject to the Cash Reserve of the Monitor, the Monitor's legal counsel, and the Seller's legal counsel);

(k) any liability with respect to any pre-Closing infringement, misappropriation, misuse, or passing off of any Intellectual Property Rights; and

(l) any Liability of the Seller not expressly included among the Assumed Liabilities or expressly assumed by the Purchaser or a Purchaser Designee under this Agreement.

#### Section 2.8 Procedures for Assumption of Agreements; Delayed Transfer of Assets.

(a) (i) On or prior to the date hereof, the Seller has delivered Section 2.8(a) of the Disclosure Letter to the Purchaser, which Schedule contains, with respect to each Assumed Contract (other than Non-Specified Contracts), the Seller's good faith estimate of the amount required to be paid with respect to each such Assumed Contract to cure any monetary defaults under such Assumed Contract to the extent required by Section 11.3 of the CCAA and otherwise satisfy all requirements imposed by Section 11.3 of the CCAA (such specified amounts, the "Cure Costs").

(ii) Up to three (3) Business Days prior to Closing, the Purchaser shall have the right to request that the Seller, and the Seller shall, seek the determination of any applicable Cure Costs in respect of any Assumed Contracts (other than Non-Specified

Contracts) by agreement of the counterparty to the applicable Assumed Contract, by order of the Court, or as otherwise acceptable to the Purchaser. As soon as possible after any such request, the Seller and the Purchaser shall work cooperatively in order to determine Cure Costs in respect of any such Assumed Contract(s).

(iii) Notwithstanding the foregoing, up to one (1) Business Day prior to the Closing, the Purchaser may identify any Assumed Contract as one that the Purchaser no longer desires to have assigned to it or a Purchaser Designee in accordance with Section 2.9.

(iv) At the Closing, the Seller shall assign to the Purchaser and/or, as applicable, one or more Purchaser Designees the Assumed Contracts, in each case in accordance with the terms of the relevant Contracts, pursuant to Section 11.3 of the CCAA, the Approval and Vesting Order or other Order of the Court in form and substance satisfactory to the Majority Initial Consenting First Lien Lenders, or as otherwise acceptable to the Purchaser. Any Cure Costs in respect of all of the Assumed Contracts shall be paid by the Purchaser or a Purchaser Designee on or before the Closing or as soon as practicable after the Cure Cost for an Assumed Contract has been determined in accordance with Section 2.8(a)(ii). Other than with respect to Cure Costs, and except as contemplated by Section 2.5 and Section 2.6, and except as prohibited by applicable Law, the Seller shall be solely responsible for the performance and discharge of the obligations under the Assumed Contracts and payments when due under the Assumed Contracts to the extent such obligations or payments arise prior to the Closing Date.

(b) Nothing herein shall be deemed to require the transfer, assignment, conveyance, or delivery of any Purchased Asset that by operation of applicable Law cannot be transferred, assigned, conveyed, delivered, or assumed, including any Purchased Asset that cannot be transferred, assigned, conveyed, delivered, or assumed without a Consent that has not been obtained (after giving effect to the Approval and Vesting Order, any other Order of the Court and the CCAA). Notwithstanding anything in this Agreement to the contrary, to the extent that the sale, transfer, assignment, conveyance, or delivery or attempted sale, transfer, assignment, conveyance, or delivery to the Purchaser and/or, as applicable, one or more Purchaser Designees of any asset that would be a Purchased Asset or any claim or right or any benefit arising thereunder or resulting therefrom is prohibited by any applicable Law or would require any Consent from any Governmental Authority or any other third party (after giving effect to the Approval and Vesting Order, any other Order of the Court and the CCAA) and such Consents shall not have been obtained prior to the Closing, the Closing shall proceed without the sale, transfer, assignment, conveyance, or delivery of such asset unless there is a failure of one or more of the conditions set forth in Article VI, in which event the Closing shall proceed only if each failed condition is waived by the Party entitled to the benefit thereof. In the event that the Closing proceeds without the transfer or assignment of any such Purchased Asset, then, following the Closing, the Purchaser and the Seller shall use their respective commercially reasonable efforts, and cooperate with each other, to obtain promptly such Consent. Pending such Consent, the Parties shall reasonably cooperate with each other in any mutually agreeable arrangement designed to provide the Purchaser and the Purchaser Designees, as applicable, with all of the benefits of use of such asset, at the sole cost and expense of the Purchaser. Once Consent for the sale, transfer, assignment, conveyance, or delivery of any such asset not

sold, transferred, assigned, conveyed, or delivered at the Closing is obtained, the Seller shall promptly transfer, assign, convey, and deliver such asset to the Purchaser and/or, as applicable, one or more Purchaser Designees at no additional cost. To the extent that any such asset cannot be transferred or the full benefits or use of any such asset cannot be provided to the Purchaser and/or, as applicable, one or more Purchaser Designees following the Closing pursuant to this Section 2.8(b), then, to the extent permitted by applicable Law, the Purchaser and the Seller shall enter into such arrangements (including subleasing, sublicensing, or subcontracting) to provide to the Parties hereto the economic (taking into account Tax costs and benefits) and operational equivalent, to the extent permitted, of obtaining such Consent. The Seller shall hold in trust for, and pay to the Purchaser and/or, as applicable, one or more Purchaser Designees, promptly upon receipt thereof, all income, proceeds, and other monies received by the Seller derived from its use of any asset that would be a Purchased Asset in connection with the arrangements under this Section 2.8(b). Notwithstanding anything to the contrary contained herein, nothing in this Section 2.8 shall be deemed to require the Seller to delay or otherwise alter the completion of the CCAA Proceedings or any winding-up of the Seller or any of its Affiliates.

(c) If, following the Closing, the Seller receives or becomes aware that it holds any asset, property, or right that constitutes a Purchased Asset, then the Seller shall transfer such asset, property, or right to the Purchaser and/or, as applicable, one or more Purchaser Designees as promptly as practicable for no additional consideration.

(d) If, following the Closing, the Purchaser receives or becomes aware that it holds any asset, property, or right that constitutes an Excluded Asset, then the Purchaser shall transfer such asset, property, or right to the Seller as promptly as practicable for no additional consideration.

Section 2.9 Additional and Eliminated Assumed Contracts. Notwithstanding anything in this Agreement to the contrary, the Purchaser may, in its sole and absolute discretion, amend or revise Section 1.2(b) of the Purchaser Schedule setting forth the Excluded Contracts or Section 1.2(a) of the Purchaser Schedule setting forth the Assumed Contracts in order to add or eliminate any Contract to such Purchaser Schedule up to three (3) Business Days prior to the Closing Date (the "Designation Deadline") and, for any particular Assumed Contract that will be assumed in whole or in part by a Purchaser Designee, to identify such Purchaser Designee. Automatically upon the deletion of any Contract from Section 1.2(b) of the Purchaser Schedule or addition of any Contract to Section 1.2(a) of the Purchaser Schedule, it shall be an Assumed Contract for all purposes of this Agreement, and Liabilities arising at and after the Closing Date under such Contract shall be an Assumed Liability for all purposes of this Agreement to the extent so provided herein. Automatically upon the addition of any Contract to Section 1.2(b) of the Purchaser Schedule or the deletion of any Contract from Section 1.2(a) of the Purchaser Schedule, it shall be an Excluded Asset for all purposes of this Agreement. If the Purchaser indicates in writing to the Seller after the Closing Date that it wishes to acquire a Contract of the Seller that was not an Assumed Contract on the Closing Date, the Seller will use its commercially reasonable efforts to assign such Contract to the Purchaser; provided, however, that nothing herein shall be deemed or construed to obligate the Seller to retain, or refrain from rejecting or terminating, any Contract after the Designation

Deadline that does not constitute an Assumed Contract; provided, further, that nothing herein shall be deemed to require the Seller to delay or otherwise alter the completion of the CCAA Proceedings or any winding-up of the Seller or any of its Affiliates.

### ARTICLE III

#### COURT APPROVAL

Section 3.1 The Hearing and the Approval and Vesting Order. The Seller shall use its best efforts to have the Hearing scheduled for as soon as reasonably practicable after the Filing Date and the Hearing shall in no event be held later than ten (10) calendar days after the Filing Date. At the Hearing, the Seller shall seek the entry of the Approval and Vesting Order.

### ARTICLE IV

#### REPRESENTATIONS AND WARRANTIES

Section 4.1 Representations and Warranties of the Seller. Except as set forth in the correspondingly numbered Schedules of the Disclosure Letter delivered as of the date hereof by the Seller to the Purchaser (the "Disclosure Letter") (it being understood that any matter disclosed in any Schedule of the Disclosure Letter will be deemed to be disclosed in any other Schedule of the Disclosure Letter to the extent that it is readily apparent on the face of such disclosure that such disclosure is applicable to such other Schedule), the Seller hereby represents and warrants to the Purchaser as follows:

(a) Organization, Corporate Power, Qualification and Subsidiaries. The Seller is duly organized, validly existing and, as of the date of this Agreement, in good standing under the Laws of the jurisdiction of its incorporation. The Seller has all requisite power and authority to own, lease, develop and operate the Purchased Assets and to carry on its business as now being conducted. The Seller is duly licensed or qualified to do business in each jurisdiction in which the properties owned or leased by it or the operation of its business makes such licensing or qualification necessary. Nelson Holdings owns all of the outstanding shares and any other ownership interests of the Seller. Other than as described in the preceding sentence, the Seller (i) does not own, directly or indirectly, any shares or other ownership interest in any Person, or any securities convertible into or exchangeable or exercisable for any shares or other ownership interests in any Person, (ii) does not have any obligation to acquire any shares or other ownership interests in any Person, or any securities convertible into or exchangeable or exercisable for any shares or other ownership interests of any Person, or to make any investment in any Person, or (iii) is not a party to any partnership, limited liability company, joint venture or similar agreement. TN Holdings, L.P. and Nelson Holdings do not own any assets relating to the operation of the business of the Seller.

(b) Authorization of Agreements, Enforceability, No Conflicts, Etc.

(i) The Seller has all requisite corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder (subject, in the case of the obligation to carry out the Transaction, to the entry of the Approval and Vesting

Order and subject to Heritage Canada Approval and Competition Act Approval (unless in either case the Parties mutually agree that such approval is not required)). Subject to the entry of the Approval and Vesting Order, the execution, delivery, and performance by the Seller of this Agreement and the consummation of the Transaction have been duly and validly authorized by all requisite corporate action on the part of the Seller and no other proceeding on the part of the Seller is necessary to authorize this Agreement and to consummate the Transaction. This Agreement has been (or will be) duly and validly executed and delivered by the Seller and (assuming the due authorization, execution, and delivery by all parties hereto and thereto, other than the Seller) constitutes (or will constitute) a valid and binding obligation of the Seller enforceable against the Seller in accordance with its terms (subject, in the case of the obligation to carry out the Transaction, to the entry of the Approval and Vesting Order).

(ii) The execution, delivery, and performance by the Seller of this Agreement does not, and the consummation by the Seller of the Transaction, upon entry of the Approval and Vesting Order, will not, (A) conflict with or result in the breach of any provision of the organizational documents of the Seller, (B) conflict with, violate, or result in the breach by the Seller of any applicable Law, (C) require the Seller to make any filing with or give notice to, or obtain any Consent from, any Governmental Authority, other than the Approval and Vesting Order, Consent from government intellectual property offices to register assignments of Intellectual Property Rights and other related documents, and Heritage Canada Approval and Competition Act Approval (unless in either case the Parties mutually agree that such approval is not required), (D) conflict with, violate, result in the breach or termination of or the loss of a benefit under, or constitute (with or without notice or lapse of time or both) a default (or give rise to any right of termination, cancellation, payment, or acceleration) or adverse modification of any terms or rights under any Contract or Permit (subject, in the case of the assumption and assignment to the Purchaser of any Assumed Contract or Permit that by its terms requires Consent to assignment, to receipt of such Consent, the entry of the Approval and Vesting Order or another Order of the Court and the terms and conditions of this Agreement), or (E) result in any Encumbrance on any of the Purchased Assets (other than a Permitted Encumbrance), except, in each case, as set forth in Section 4.1(b)(ii) of the Disclosure Letter. The items listed in Section 4.1(b)(ii)(A) of the Disclosure Letter would not individually or in the aggregate constitute, or be reasonably likely to result in, a Material Adverse Effect.

(c) Title to Personal Property; Liens. The Seller has good, marketable and valid title (or in the case of leased items of Personal Property, leasehold interest) to all material items of Personal Property used in its business or that otherwise constitute Purchased Assets (except as sold or disposed of subsequent to the date hereof in the ordinary course of business consistent with past practice and not in violation of this Agreement or the other Transaction documents), free and clear of any and all Encumbrances, other than Permitted Encumbrances and except as set forth in Section 4.1(c) of the Disclosure Letter.



(d) Sufficiency of Assets. The Purchased Assets constitute substantially all of the tangible and intangible assets and properties that are used or held for use by the Seller in connection with its business and, subject to Section 2.2(b), the Purchased Assets are sufficient for the Purchaser to conduct and operate the business of the Seller from and after the Closing Date in substantially the same manner and without interruption, as it has been conducted by the Seller immediately prior to the Closing. Without limiting the foregoing, the interest of the Seller in and to all property, assets, interests, and rights comprising the Personal Property is sufficient such that the Purchaser is not subject to any penalty, fee, levy, charge, or other compensation payable to any third party for the use of or access to the Personal Property and, without restricting the generality of the foregoing, none of the Personal Property is leased or rented, in each case except as set forth in Section 4.1(d) of the Disclosure Letter. The Purchased Assets are in good and operable condition, reasonable wear and tear excepted, and, to the Knowledge of the Seller, the Personal Property operated by third parties, if any, is in good and operable condition, reasonable wear and tear excepted. The Intellectual Property Rights owned and used by the Seller are valid, subsisting and enforceable. The Seller has taken steps to protect the Intellectual Property Rights and to maintain the confidentiality of trade secrets and other proprietary information. All trademarks and trade names, whether registered or unregistered, have been in continuous use in the three-year period preceding this Agreement.

(e) Litigation.

(i) Except as set forth in Section 4.1(e) of the Disclosure Letter, as of the date of this Agreement, there is not pending or, to the Knowledge of the Seller, threatened, an Action against the Seller or affecting the Purchased Assets or the Assumed Liabilities. The Seller has provided timely notice of claims related to Actions and Claims to its insurers and there is no Action or Claim for which insurance coverage has been disputed or denied. Except as set forth in Section 4.1(e) of the Disclosure Letter, no Seller, Purchased Asset or Assumed Liability is subject to any Order, and the Seller is not in breach or violation of any Order. Except as set forth in Section 4.1(e) of the Disclosure Letter, the Seller is not engaged in any legal action to recover monies due to it or for damages sustained by it.

(ii) Except as set forth in Section 4.1(e) of the Disclosure Letter, the Seller has not received notice from any third party claiming an interest in and to the Purchased Assets adverse to the interest of the Seller, and the Seller has no reason to believe that any such claim may be made.

(f) Compliance with Law; Permits.

(i) The Seller, and to the Knowledge of the Seller, each of the Service Providers, has at all times within the two (2) years preceding the date of this Agreement operated its business in compliance with all applicable Laws in all material respects. Within the two (2) years preceding the date of this Agreement, the Seller has not received notice of any investigation or review by any Governmental Authority with respect to the Purchased Assets or the business of the Seller that is pending, and, to the Knowledge of the Seller, no investigation or review is threatened, nor has any Governmental Authority indicated any intention to conduct the same relating to the

Purchased Assets or the business of the Seller within the two (2) years prior to the date of this Agreement.

(ii) Subject to the entry of the Approval and Vesting Order and any order approving the assumption and assignment of the Assumed Contracts, the Seller has complied with all requirements of the CCAA in connection with obtaining approval of the sale of the Purchased Assets (including the assumption and assignment to the Purchaser and/or, as applicable, one or more Purchaser Designees of any Assumed Contracts) to the Purchaser and/or, as applicable, one or more Purchaser Designees pursuant to this Agreement.

(iii) Attached as Section 4.1(f)(iii) of the Disclosure Letter is a schedule of all material permits, consents, licenses, approvals, or similar authorizations of Governmental Authorities required for operation of the business of the Seller (the "Permits"). Each Permit is in full force and effect, the Seller is in compliance with their terms and conditions in all material respects, all required renewal applications have been timely filed, no notice has been received by a Governmental Authority to revoke any Permit, and no proceeding is pending or, to the Knowledge of the Seller, threatened to revoke or limit any Permit.

(g) Financial Statements.

(i) The Seller has furnished the Purchaser with the Audited Financial Statements and the Unaudited Financial Statements. The Financial Statements have been prepared in accordance with GAAP and the Seller's accounting policies and practices consistently applied throughout the periods included therein, except, in the case of the Unaudited Financial Statements, for normal year-end audit adjustments and the absence of footnote disclosures, none of which, individually or in the aggregate, are material.

(ii) The Financial Statements present fairly, in all material respects, the consolidated financial condition of the business of the Seller as of the dates set forth therein, and the consolidated results of operations and cash flows for the periods covered thereby, in conformity with GAAP (subject, in the case of the Unaudited Financial Statements, to the absence of notes and normal year-end audit adjustments and to any other adjustments set forth therein).

(iii) All financial transactions of the business of the Seller that are material to the business of the Seller have been properly recorded in the Financial Records, which have been maintained in accordance with sound business and financial practice. The Financial Records accurately reflect in all material respects the basis for the financial condition and the revenues, expenses, and results of operations of the business of the Seller. No information, records, systems, controls, or data pertaining to or required for the operation or administration of the business of the Seller are recorded, stored, maintained by, or are otherwise dependent upon, any computerized or other system, program, or device that is not exclusively owned and controlled by the Seller, except as set forth in Section 4.1(g)(iii) of the Disclosure Letter, and, on the Closing Date, the Purchaser will have originals or copies of all such records, systems, controls, or data

pertaining to or required for the operation or administration of the business of the Seller that are in the Seller's possession or control, including, where applicable, copies of all computer software and documentation relating thereto.

(iv) The Books and Records have been maintained in material compliance with applicable Law and accounting requirements and fairly reflect all dealings and transactions in respect of the Purchased Assets and the Assumed Liabilities.

(h) No Undisclosed Liabilities. As of the date hereof the Seller does not have any Claims against it or Liabilities except: (i) as set forth in the Financial Statements; (ii) for Liabilities incurred in the ordinary course of business consistent with past practice subsequent to March 31, 2015 that are not material to the Seller; (iii) Claims against it or Liabilities set forth on Section 4.1(h) of the Disclosure Letter, which schedule contains a true and complete list of (a) all Claims and Liabilities as at March 31, 2015 (other than any such individual Liability of \$50,000 or less; provided that the aggregate of all such individual Liabilities described in this parenthetical that are not otherwise set forth in the Financial Statements shall not exceed \$250,000) against the Seller, or any property owned by the Seller, as of the date of this Agreement, whether or not such Claims are reduced to judgment, liquidated, unliquidated, fixed, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured, (b) the Person or Persons holding such Claims or Liabilities and (c) the approximate dollar amount of each such Claim or Liability, as the case may be; and (iv) Claims against it or Liabilities arising under all Contracts, Employee Benefit Plans, Permits and Orders of the Seller. Except as set forth in Section 4.1(h) of the Disclosure Letter, there are no off-balance sheet arrangements of any type, nor any obligations to enter into any such arrangements.

(i) Absence of Certain Changes. Except as disclosed in Section 4.1(i) of the Disclosure Letter or as approved by an Order of the Court, the business of the Seller has been carried on in the ordinary course in all material respects since January 31, 2013 and will be carried on in the ordinary course in all material respects after the date of this Agreement or as otherwise contemplated in this Agreement and up to the Closing Date, subject to the terms of the Initial Order or any other Order of the Court.

(j) Real Property.

(i) Section 4.1(j) of the Disclosure Letter sets forth a complete and accurate list of all of the real property in which the Seller has an interest (collectively, the "Owned Real Property"). The Owned Real Property constitutes all of the real property currently used and reasonably necessary for the ongoing conduct of the business of the Seller and no other real property is reasonably necessary to conduct the business of the Seller. No consent is needed in connection with the transfer of the Owned Real Property, as contemplated herein, which has not been obtained. The Seller has the right to use the Owned Real Property for the purposes such Owned Real Property is currently being used and same is being used materially in compliance with applicable Laws. There are no pending or, to the Knowledge of the Seller, threatened condemnation or expropriation proceedings, lawsuits, or administrative actions relating to any Owned Real Property or other matters materially affecting and adversely impairing the current use or occupancy thereof. The Seller does not own or occupy any

real property other than the Owned Real Property. The Seller has (x) a valid, good, marketable fee simple interest in the Owned Real Property and (y) valid title to, or a valid leasehold interest in, the material tangible personal property constituting Purchased Assets, in each case (x) and (y), free and clear of Encumbrances, other than Permitted Encumbrances and except as set forth in Section 4.1(c) of the Disclosure Letter. The Seller is not obligated to pay any brokerage commission or fee in connection with any Owned Real Property. Except as set forth in Section 4.1(j)(i) of the Disclosure Letter, the Seller is not a party to any lease, sublease, license, or similar occupancy contract, including any guarantees in respect of real property (whether as lessee or lessor).

(ii) As of the date of this Agreement, the Seller has not received any written notice of any, and there is no pending or, to the Knowledge of the Seller, threatened, eminent domain, condemnation, expropriation or rezoning proceeding, or any sale or other disposition in lieu of eminent domain, condemnation or expropriation, with respect to the Owned Real Property or any part of the Owned Real Property or for the relocation of roadways or streets providing access to or egress from the Owned Real Property.

(k) Material Contracts.

(i) Section 4.1(k)(i) of the Disclosure Letter sets forth, as of the date of this Agreement, a true and complete list of, and the Seller has made available to Purchaser true and complete copies of, the following Contracts to which the Seller is a party (collectively, the "Material Contracts"):

(I) each Contract of the Seller involving aggregate 2014 fiscal or calendar year payments, as the case may be, by or to the Seller of more than \$100,000;

(II) (A) all Contracts pursuant to which any Indebtedness of the Seller is outstanding or may be incurred, (B) all Contracts of or by the Seller guaranteeing any debt obligations of any other Person (other than the Seller), including the respective aggregate principal amounts outstanding as of the date hereof and (C) all Contracts involving any "keep well" arrangements or pursuant to which the Seller has agreed to maintain any financial statement condition of another Person;

(III) all Contracts relating to any mortgage, indenture, security agreement, guaranty or other agreement or instrument relating to Indebtedness or the extension of credit;

(IV) all employment Contracts for Employees being paid in the 2014 calendar year an annual base salary of \$100,000 or more per annum and any employment change of control, retention, severance or material consulting Contracts;

(V) all Contracts pursuant to which the Seller has agreed not to, or which, following the consummation of the transactions contemplated by this Agreement, could restrict the ability of Purchaser and its Affiliates, including the Seller, to compete with any Person in any business or in any geographic area or to engage in any business or other activity, including any restrictions relating to “exclusivity” or any similar requirement in favor of any Person other than the Seller or pursuant to which any benefit is required to be given or lost as a result of so competing or engaging (other than Non-Specified Contracts);

(VI) all Contracts granting any license to any right, property or other asset (other than Non-Specified Contracts);

(VII) all Contracts pertaining to any Intellectual Property Rights (excluding agreements for the use of commercially available, off-the-shelf, shrink-wrap and click-wrap software and Non-Specified Contracts);

(VIII) all joint venture, limited liability company, partnership or other similar Contracts (including all amendments thereto) in which the Seller holds an interest;

(IX) all Contracts between the Seller, on the one hand, and any of its Affiliates or any current or former officer, director or member thereof, on the other hand;

(X) all Contracts relating to the acquisition (by merger, purchase of shares or assets or otherwise) by the Seller of any operating business or assets or the shares of any other Person; and

(XI) all Contracts for the sale of any of the assets of the Seller, other than in the ordinary course of business consistent with past practice, or for the grant to any Person of any preferential rights to purchase any of its assets in excess of \$50,000.

(ii) Each Material Contract is in full force and effect and is a legal, valid and binding obligation of the Seller, and, to the Knowledge of the Seller, of the other parties thereto, enforceable against each of them in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereinafter in effect affecting creditors’ rights generally and (ii) general principles of equity. Except as set forth in Section 4.1(k)(ii) of the Disclosure Letter, the Seller has performed all material obligations required to be performed by it to date under each Material Contract. Except as set forth in Section 4.1(k)(ii) of the Disclosure Letter, the Seller is not in material violation of or in material default under (nor, to the Knowledge of the Seller, does there exist any condition which upon the passage of time or the giving of notice or both would cause such a violation of or default under) any Material Contract to which it is a party or by which the Seller, or any of its properties or other assets, is bound. Except as set forth in Section 4.1(k)(ii) of the Disclosure Letter, no party to any of the Material Contracts has exercised any termination rights with respect

thereto, and no party has given written notice or threatened to give such notice, to the Seller of any significant dispute with respect to any Material Contract.

(iii) Except as would not individually or in the aggregate constitute, or be reasonably likely to result in, a Material Adverse Effect, each Non-Specified Contract is in full force and effect and is a legal, valid and binding obligation of the Seller, and, to the Knowledge of the Seller, of the other parties thereto, enforceable against each of them in accordance with its terms, subject to (i) applicable bankruptcy, insolvency, reorganization, moratorium or similar Laws now or hereinafter in effect affecting creditors' rights generally and (ii) general principles of equity. Except as would not individually or in the aggregate constitute, or be reasonably likely to result in, a Material Adverse Effect, the Seller has performed all obligations required to be performed by it to date under each Non-Specified Contract. Except as would not individually or in the aggregate constitute, or be reasonably likely to result in, a Material Adverse Effect, the Seller is not in violation of or in default under (nor, to the Knowledge of the Seller, does there exist any condition which upon the passage of time or the giving of notice or both would cause such a violation of or default under) any Non-Specified Contract to which it is a party or by which the Seller, or any of its properties or other assets, is bound. Except as would not individually or in the aggregate constitute, or be reasonably likely to result in, a Material Adverse Effect, no party to any of the Non-Specified Contracts has exercised any termination rights with respect thereto, and no party has given written notice or threatened to give such notice, to the Seller of any significant dispute with respect to any Non-Specified Contract.

(l) Brokers. Upon consummation of the Transaction, the Seller shall have incurred no Liability for brokerage or finders' fees or agents' commissions or other similar payment in connection with the Transaction (a "Seller Broker Fee"), other than to Alvarez & Marsal Canada ULC. Neither the Purchaser nor any Affiliate of the Purchaser will have any Liability in connection with any Seller Broker Fee.

(m) Environmental Matters. The use by the Seller of the Owned Real Property is in material compliance with all Environmental Laws. The Owned Real Property is in material compliance with Environmental Laws, including any Environmental Permits. As of the date of this Agreement, (i) the Seller is not, to the Knowledge of the Seller, subject to any pending or threatened Action alleging that the Seller may be in violation of any Environmental Law or Environmental Permit, or may have any Liability under any Environmental Law and (ii) the Seller has not stored, treated, disposed of, arranged for disposal or treatment of, transported, handled, manufactured, distributed, or released any Hazardous Substance on, under, or from the Owned Real Property, except in material compliance with Environmental Laws or as set out in Section 4.1(m) of the Disclosure Letter.

(n) Intellectual Property.

(i) The Seller has valid title or a valid license to all of the Purchased Intellectual Property, except as set forth in Section 4.1(n)(i) of the Disclosure Letter. The Purchased Intellectual Property listed in Section 4.1(n)(i) of the Disclosure Letter is not necessary for the Purchaser to conduct or operate the business of the Seller from

and after the Closing Date in substantially the same manner, and without interruption, as it has been conducted by the Seller immediately prior to the Closing.

(ii) Section 4.1(n)(ii) of the Disclosure Letter lists all Purchased Intellectual Property that is not listed in Section 4.1(n)(i) of the Disclosure Letter in which moral rights have not been waived.

(iii) All employees, officers and directors of the Seller during the two (2) year period preceding the date of this Agreement have assigned in writing to the Seller all Purchased Intellectual Property that such employees, officers and directors have created.

(iv) All agents and Independent Contractors of the Seller during the two (2) year period preceding the date of this Agreement have assigned in writing to the Seller all rights held by such agents and Independent Contractors in Purchased Intellectual Property created for the Seller.

(v) All agents and Independent Contractors of the Seller during the two (2) year period preceding the date of this Agreement have waived in writing moral rights in Purchased Intellectual Property.

(vi) Section 4.1(n) of the Disclosure Letter lists each registered Purchased Intellectual Property and each Contract with respect to Purchased Intellectual Property pursuant to which the Seller has granted any Person the right to reproduce, distribute, market, or exploit such Intellectual Property Rights (and in each case with aggregate 2014 fiscal or calendar year payments, as the case may be, to the Seller of more than \$50,000).

(vii) Except as set forth in Section 4.1(n) of the Disclosure Letter, there is no Action pending or, to the Knowledge of the Seller, threatened that challenges the validity of ownership or use of any Purchased Intellectual Property, and there exists, to the Knowledge of the Seller, no state of facts and circumstances that would result in any such challenge that is material to the business of the Seller being successful or which would be reasonably likely to result in a material liability or otherwise have a Material Adverse Effect.

(viii) To the Knowledge of the Seller, no third party's operations or products infringe on the Purchased Intellectual Property in any material respect.

(ix) Except as set forth in Section 4.1(n) of the Disclosure Letter, to the Knowledge of the Seller, the operation of the business of the Seller does not infringe, misappropriate, misuse, or pass off on the Intellectual Property Rights of any other Person.

(x) The Seller has not received, during the three (3) year period preceding the date of this Agreement, any written claim, written notice or other written communication, and, to the Knowledge of the Seller, there are not any threatened

Actions, alleging infringement, invalidity, or unenforceability with respect to any Purchased Intellectual Property, in each case in an amount in excess of \$10,000, or that, if successful, would result in a loss of the Seller's revenue in excess of \$10,000, except as set forth in Section 4.1(n) of the Disclosure Letter.

(xi) The Seller has not received, during the three (3) year period preceding the date of this Agreement, any written claim, written notice or other written communication, and, to the Knowledge of the Seller, there are not any threatened Actions, alleging infringement, misappropriation, misuse or passing off of the Intellectual Property Rights of any other Person, in each case in an amount in excess of \$10,000, or that, if successful, would result in a loss of the Seller's revenue in excess of \$10,000, except as set forth in Section 4.1(n) of the Disclosure Letter.

(o) Insurance.

(i) Section 4.1(o) of the Disclosure Letter sets forth a complete list of all insurance policies with respect to which the Seller is a party, a named insured, or otherwise the beneficiary of coverage with respect to any of the Purchased Assets or the Assumed Liabilities. The assets of the Seller have been insured against risks normally covered by insurance policies by companies carrying on business of a similar nature of the Seller. There is no material claim by the Seller pending under any such policies that has been denied or disputed by the insurer. All such insurance policies, other than insurance policies provided by Cengage Learning Inc. or its Affiliates, and, to the knowledge of the Seller, all insurance policies provided by Cengage Learning Inc. or its Affiliates, are in full force and effect, all premiums due and payable thereon have been paid, all material terms and conditions of such policies have been complied with, and no written notice of cancellation or termination has been received by the Seller with respect to any such policy that is not replaceable by the Seller on substantially similar terms prior to the date of such cancellation.

(ii) During the period beginning on February 28, 2015 to the date of this Agreement, there has not been any material damage to the Purchased Assets that are tangible assets and material to the business of the Seller in respect of which the Seller is entitled to insurance proceeds, condemnation or expropriation awards, or other compensation.

(p) Tax Matters.

(i) All material Tax Returns required to be filed by the Seller or any of its Affiliates with respect to the Purchased Assets or the Assumed Liabilities have been timely filed (taking into account extensions).

(ii) All such Tax Returns were correct and complete in all material respects.

(iii) All Taxes due and payable (whether or not shown) on such Tax Return have been paid. During the last two (2) years, no Claim has been made by any taxing authority in a jurisdiction where the Seller or any of its Affiliates do not file Tax



Returns that the Seller or any of its Affiliates is or may be subject to taxation by that jurisdiction with respect to the Purchased Assets or the Assumed Liabilities. Except as set forth in Section 4.1(p)(iii) of the Disclosure Letter, the Seller and its Affiliates have withheld and paid to the relevant taxing authority, in all material respects, all Taxes required to have been withheld and paid in connection with amounts paid or owing to any Employee, Independent Contractor, creditor, shareholder, or other third party, in each case relating to the Purchased Assets or the Assumed Liabilities.

(iv) As of the date of this Agreement, except as set forth in Section 4.1(p)(iv) of the Disclosure Letter, no administrative proceeding or judicial proceeding that involves a material amount of Tax and relates to the Purchased Assets or the Assumed Liabilities is pending or threatened in writing.

(v) None of the Purchased Assets represents an interest in United States real property for the purpose of Section 897 of the United States Internal Revenue Code.

(vi) The Seller is a registrant for purposes of Part IX of the ETA, under the registration number [•].

(q) Employee Benefits.

(i) Section 4.1(q)(i) of the Disclosure Letter sets forth a complete list of all Employees employed in the conduct of the business of the Seller as of the date hereof, including the following information for each such Employee: (i) title; (ii) status code (i.e., active or leave); (iii) category (i.e., part-time or full-time status); (iv) division; (v) location; (vi) seniority date; (vii) original hire date; (viii) years of service (including any prior years of service that are required to be recognized for any purpose); (ix) date of birth; (x) age; (xi) annual base salary; (xii) Province; (xiii) benefits eligible (yes/no); (xiv) bonus type; (xv) bonus amount percentage; (xvi) company vehicle allowance (monthly); (xvii) car allowance (monthly); (xviii) union/non-union; (xix) employment contract (yes/no); (xx) annual vacation entitlement (weeks); (xxi) if on leave, the status of such leave (including reason for leave and expected return date); and (xxii) the Employee Benefit Plans that each Employee participates in.

(ii) Section 4.1(q)(ii) of the Disclosure Letter sets forth a complete list of all consultants, independent contractors and independent sales agents ("Independent Contractors") engaged by the Seller in the conduct of the business of the Seller in the 2014 calendar year to whom the Seller has paid at least \$50,000 in the 2014 calendar year, including the following information for each such Independent Contractor: (i) name; (ii) whether the Independent Contractor is providing services pursuant to a written contract; (iii) the term of any contract under clause (ii) above; (iv) notice, if any, required by the Seller to terminate the Independent Contractor without cause; (v) the date the Independent Contractor first commenced providing services to the Seller; and (vi) annual fees paid to the Independent Contractor for the prior calendar year.

(iii) Section 4.1(q)(iii) of the Disclosure Letter contains a true and complete list of each Employee Benefit Plan. Each Employee Benefit Plan is and has been

established, registered (where applicable), administered, amended, funded and invested in accordance with its terms, in all material respects, and in compliance in all material respects with the applicable provisions of applicable Laws. All Seller and Employee premiums or contributions due or payable with respect to any Employee Benefit Plan, have been timely made in accordance with applicable Laws or remitted or paid in full or, to the extent not required to be made or remitted or paid on or before the date hereof, have been reflected on the Financial Statements, except as set forth in Section 4.1(q)(iii) of the Disclosure Letter. All Employee Benefit Plans (i) that are intended to qualify for special Tax treatment meet all material requirements for such treatment, and (ii) that are required to be funded and/or book-reserved are funded and/or book-reserved, as appropriate, based upon reasonable actuarial assumptions and in accordance with applicable Law.

(iv) The Seller has provided the Purchaser with complete and current copies of each Employee Benefit Plan, if written (or if not written, a written summary of its terms), including all Contracts relating thereto and the following documentation, as applicable: plan descriptions provided to Employees, the two (2) most recent annual information returns, the two (2) most recent financial statements or reports, the investment policy statements, and all material correspondence relating to the Employee Benefit Plans with any Governmental Authority during the past two (2) years.

(v) Except as set out in Section 4.1(q)(v) of the Disclosure Letter, each of the Employee Benefit Plans are either fully funded or fully insured and there are no unfunded Liabilities under any Employee Benefit Plan. None of the Pension Plans contains any "defined benefit provision," as defined in the Income Tax Act (Canada).

(vi) The Seller has no formal plans and has made no promise or commitment, whether legally binding or not, to create any additional Employee Benefit Plans or to modify or improve the benefits under any existing Employee Benefit Plans.

(vii) None of the Employee Benefit Plans provide retiree health or life insurance benefits, other than voluntary life insurance that may be purchased by Employees at no cost to the Seller, except as set forth in Section 4.1(q)(vii) of the Disclosure Letter.

(viii) All Tax, annual reporting, and other governmental filings for Employee Benefit Plans required by Laws, if any, have been timely filed with the appropriate Governmental Authority and all notices and disclosures have been timely provided to participants.

(ix) To the Knowledge of the Seller, no act or event has occurred which would result in the revocation of registration of any Employee Benefit Plan or which would entitle any Governmental Authority to order or require the termination or wind up of any Employee Benefit Plan, in whole or in part, or which could reasonably be expected to adversely affect the Tax status of any Employee Benefit Plan.

(x) All obligations of the Seller regarding the Employee Benefit Plans have been satisfied in all material respects. Neither the Seller, nor, to the Knowledge of the Seller, any Employee or fiduciary in respect of any Employee Benefit Plan, is or has been in breach of any statutory or fiduciary duty with respect to the administration or investment of any Employee Benefit Plan.

(xi) Except as set forth in Section 4.1(q)(xi) of the Disclosure Letter, there are no entities other than the Seller participating in any Employee Benefit Plan.

(xii) All data necessary to administer each Employee Benefit Plan is in the possession of the Seller or its respective agents and is in a form which is sufficient for the proper administration of the Employee Benefit Plans in accordance with their terms and all applicable Laws, and such data is complete and correct in all material respects.

(xiii) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (either alone or in combination with another event) (i) result in any payment becoming due, or increase the amount of any compensation or benefits due, to any current or former Employee of the Seller or with respect to any Employee Benefit Plan; (ii) increase any benefits otherwise payable under any Employee Benefit Plan; or (iii) result in the acceleration of the time of payment or vesting of any such compensation or benefits under an Employee Benefit Plan.

(xiv) The Seller has neither been, nor is now, a party to any contract with, commitment to, or collective agreement with any trade union, council of trade unions, employee bargaining agency, or affiliated bargaining agent (collectively, "Labour Representatives") and the Seller has not conducted negotiations with respect to any such future contracts, commitments, or collective agreements.

(xv) No Labour Representative holds bargaining rights with respect to any Employees, has applied to be certified as the bargaining agent of any Employee, or applied to have the Seller declared a related employer or successor employer pursuant to the *Labour Relations Act* (Ontario) or similar legislation in any other jurisdiction.

(xvi) The Seller has neither been, nor is now, engaged in any unfair labour practice nor, to the Knowledge of the Seller, is there any actual, threatened, or pending complaint regarding any unfair labour practice and there is not pending or existing, and there is not, to the Knowledge of the Seller, threatened, any strike, slowdown, picketing, work stoppage, or employee grievance process involving the Seller.

(xvii) Except as disclosed in Section 4.1(q)(xvii) of the Disclosure Letter, with respect to the Employees and former Employees of the Seller, (i) there has not been, there is not presently pending or existing, and there is not, to the Knowledge of the Seller, threatened any (I) prosecution, charge, grievance proceeding, suit, investigation or other claim against the Seller (or any director, officer, manager, or employee thereof) relating to the actual or alleged violation of any applicable Law pertaining to labour relations or employment matters, including any charge or complaint filed by an

Employee or Labour Representative (or a spouse, beneficiary, or representative of any Employee or former Employee) with any applicable Governmental Authority (including pursuant to the Ontario *Human Rights Code*, the *Occupational Health & Safety Act* (Ontario), the *Workplace Safety and Insurance Act* (Ontario), the *Employment Standards Act, 2000* (Ontario), or the *Pay Equity Act* (Ontario)), or (II) suits, investigations, or other proceedings by any Governmental Authority relating to any Employee Benefit Plan and (ii) to the Knowledge of the Seller, no statement of facts exist which (after notice or lapse of time, or both) would reasonably be expected to give rise to any such prosecution, charge, grievance proceeding, suit, investigation, or claim. The Seller does not have a material claim, whether asserted or unasserted, against any of its Employees or former Employees.

(xviii) The Seller is and has been in compliance in all material respects with all applicable Laws relating to employment of labor, including all applicable Laws relating to wages, hours, overtime, collective bargaining, employment discrimination, civil rights, occupational health and safety, workers' compensation, pay equity, employment equity, classification of employees and Independent Contractors, and the collection and payment of withholding Taxes. The Seller does not have any material Liability, whether absolute or contingent, including any obligation under any Employee Benefit Plan, with respect to any misclassification of a person performing services for the Seller as an Independent Contractor rather than as an Employee.

(xix) No Employee or Independent Contractor is, to the Knowledge of the Seller, bound by any contract (including licenses, covenants or commitments of any nature) or subject to any judgment, decree or order of any Governmental Authority that would materially interfere with the use of such Person's best efforts to promote the interests of the Seller or that would materially conflict with the Seller's business as currently conducted.]

(r) Inventory. The inventory forming part of the Purchased Assets is of a quality and quantity usable and saleable in all material respects in the ordinary course and at an amount not less than the amounts carried in the Financial Statements, subject to Section 5.1(f).

(s) Corrupt Practices. Neither the Seller nor, to the Knowledge of the Seller, any Service Provider, has made any payment, directly or indirectly, on behalf of or for the benefit of the Seller or any of its Affiliates, in violation of any applicable Laws prohibiting the payment of undisclosed commissions or bonuses or the making of bribe or incentive payments or other arrangements of a similar nature with respect to the conduct of the business of the Seller, including the *Corruption of Foreign Public Officials Act* (Canada), and the Seller has instituted and maintains policies and procedures designed to ensure continued compliance with such laws.

(t) Investigation. The Seller has made diligence inquiries and searches for material documents and information relating to the Purchased Assets and for all information reasonably required to make the representations and warranties contained in this Agreement not misleading in light of the circumstances.

Section 4.2 Representations and Warranties of the Purchaser. The Purchaser represents and warrants to the Seller as follows:

(a) Organization. The Purchaser is duly organized, validly existing, and in good standing under the laws of its jurisdiction or organization and has all requisite power and authority to own, lease, and operate its properties and to carry on its business as now being conducted.

(b) Corporate Power and Authority. The Purchaser has all requisite power and authority to execute and deliver this Agreement and to perform its obligations hereunder (subject, in the case of the obligation to carry out the Transaction, to the entry of the Approval and Vesting Order). The execution, delivery, and performance by the Purchaser of this Agreement and the consummation of the Transaction have been duly and validly authorized by all requisite corporate action on the part of the Purchaser, and no other corporate proceeding on the part of the Purchaser is necessary to authorize this Agreement and to consummate the Transaction. This Agreement has been duly and validly executed and delivered by the Purchaser and (assuming the due authorization, execution, and delivery by all parties hereto and thereto, other than the Purchaser) constitutes (or will constitute) a valid and binding obligation of the Purchaser, enforceable against the Purchaser in accordance with its terms (subject, in the case of the obligation to carry out the Transaction, to the entry of the Approval and Vesting Order).

(c) Approvals. The execution, delivery, and performance by the Purchaser of this Agreement does not, and the consummation by the Purchaser of the Transaction will not, require the Purchaser to make any filing with or give notice to, or obtain any Consent from, any Governmental Authority, other than the Approval and Vesting Order and government intellectual property offices to register assignments of Intellectual Property Rights, and other related documents.

(d) Brokers. The Purchaser has not incurred any Liability for brokerage or finders' fees or agents' commissions or other similar payment in connection with the Transaction that would be payable by the Seller.

(e) Investigation. The Purchaser acknowledges and affirms that it has completed its own independent investigation, analysis, and evaluation of the Purchased Assets, that it has made all such reviews and inspections of the Purchased Assets as it deems necessary and appropriate, and that, in making its decision to enter into this Agreement and consummate the Transaction, it has relied on its own investigation, analysis, and evaluation with respect to all matters, without reliance upon any express or implied representations or warranties, except as expressly set forth in this Agreement or the Support Agreement.

(f) GST/HST. On or before the Closing Date, the Purchaser shall be a registrant for purposes of Part IX of the ETA.

(g) Term Note and Purchaser Preferred Shares. On the Closing Date, each of the Term Note and the Purchaser Preferred Shares issued by the Purchaser to the Seller shall be free and clear of any claim, lien, charge, encumbrance or other adverse claim whatsoever.

## ARTICLE V

### COVENANTS

Section 5.1 Interim Covenants of the Seller. Between the date hereof and the Closing Date, except as required by this Agreement, any Order of the Court, or applicable Law, or with the prior written consent of the Purchaser, in its sole and absolute discretion, the Seller shall conduct the business of the Seller in the ordinary course of business consistent with past practice and shall:

(a) use commercially reasonable efforts to maintain the Permits and preserve the goodwill and business relationships of the business of the Seller, and cause the conditions in Section 6.1 to be satisfied;

(b) manage the Purchased Assets and the Assumed Liabilities in the ordinary course of business consistent with past practice, and not materially accelerate the collection of Accounts Receivable outside of the ordinary course of business consistent with past practice;

(c) (i) perform in all material respects all of its obligations under the Assumed Contracts, as and when such obligations become due; (ii) unless the Seller has provided five (5) Business Days' notice of same to the Purchaser and has not received objection to same, not grant (whether before or after the Designation Deadline) any material Consent under any Assumed Contracts (other than as expressly required by such Assumed Contracts or in the ordinary course of performing its obligations under such Assumed Contracts); and (iii) unless the Seller has provided five (5) Business Days' notice of same to the Purchaser and has not received objection to same, not modify, amend, or terminate in any material respect any Material Contract (other than as expressly required by such Material Contracts) or enter into any material Contract;

(d) comply with all applicable Laws in all material respects;

(e) maintain the Books and Records;

(f) not sell, pledge, assign, lease, license, or cause, permit, or suffer the imposition of any Encumbrance (other than Permitted Encumbrances) on, or otherwise dispose of, any of the Purchased Assets, other than (i) the sale or disposition of assets in the ordinary course of business consistent with past practices, (ii) the sale or disposition of assets that are obsolete or not otherwise used in the operation of the business of the Seller and are immaterial, in the aggregate, to the business of the Seller, (iii) pursuant to any Contract permitted under Section 5.1(i) hereof, or (iv) through a viable transaction (reasonably expected to close by the Outside Date) that provides for the payment in full of all amounts outstanding under the First Lien Credit Agreement contemporaneously with the closing of such transaction;

(g) not enter into a plan of compromise or arrangement, merger, share exchange, or reorganization with any Person or adopt a plan of complete or partial liquidation, other than in

connection with a transaction that provides for the payment in full of all amounts outstanding under the First Lien Credit Agreement contemporaneously with the closing of such transaction;

(h) not authorize, declare, or pay any dividends on or make any distribution with respect to its outstanding shares (whether in cash, assets, shares, or other securities);

(i) except pursuant to obligations under existing Contracts, not enter into any Contract the effect of which would be to grant to a third party any license to use any Purchased Intellectual Property, in each case the effect of which would reasonably be expected to be adverse to the business of the Seller in any material respect or that is expected to involve aggregate payments in any twelve (12) month period of \$200,000 or more, unless the Seller has provided seven (7) Business Days' notice of same to the Purchaser and the Purchaser has not provided notice of objection to such action prior thereto;

(j) not enter in any (i) settlement agreement with a third party or Governmental Authority or (ii) consent decree with a Governmental Authority that, in either case, would require the payment by the Purchaser or any Affiliate thereof of any material funds after the Closing;

(k) not expend any insurance proceeds, condemnation or expropriation awards, or other compensation in respect of loss or damage to any Purchased Asset to the extent occurring after the date hereof but prior to the Closing Date, except, in each case, as is reasonably necessary to repair or replace such Purchased Asset in the ordinary course of business consistent with past practice;

(l) (i) not increase the compensation or benefits of the Service Providers, other than in the ordinary course of business and consistent with past practice or as required by Law (for the avoidance of doubt, an increase shall be in the ordinary course of business if it is not in excess of \$30,000 individually or \$150,000 in the aggregate, collectively, with all amounts paid pursuant to (ii) below), (ii) not pay any amounts or increase any amounts payable to the Service Providers not required by any current plan or agreement, other than in the ordinary course of business or as required by Law (for the avoidance of doubt, a payment or an increase shall be in the ordinary course of business provided that it is not in excess of \$30,000 individually or \$150,000 in the aggregate, collectively, with all amounts paid pursuant to (i) above), (iii) not become a party to, establish, materially amend, commence participation in, terminate, or commit itself to the adoption of any stock option plan or other stock-based compensation plan, compensation (including any employee co-investment fund), severance, pension, retirement, profit-sharing, welfare benefit, or other Employee Benefit Plan, (iv) not become party to any agreement or employment agreement with or for the benefit of any Service Provider (or newly hired employee) other than in the ordinary course of business or as required by Law, (v) not accelerate the vesting of or lapsing of restrictions with respect to any stock-based compensation or other long-term incentive compensation, (vi) not (x) hire any Service Provider, (y) terminate the employment of any Service Provider, or (z) promote any Service Provider, in each case other than in the ordinary course of business, (vii) not cause the funding of any trust or similar arrangement or take any action to fund or in any other way secure the payment of compensation or benefits under any Employee Benefit Plan, and (viii) not materially change any actuarial or other assumptions used to calculate funding obligations with

respect to any Employee Benefit Plan or change the manner in which contributions to such plans are made or the basis on which such contributions are determined, except as may be required by GAAP or applicable Law;

(m) not enter into any agreement (whether written or oral) to do any of the foregoing, or authorize or publicly announce an intention to do any of the foregoing;

(n) maintain the Owned Real Property in substantially the same repair and condition as same exist as of the date hereof, subject to ordinary, reasonable wear and tear, and make all required payments in respect of the Owned Real Property (whether in connection with any Property Taxes, or otherwise, as applicable); and

(o) not amend any previously filed Tax Returns or execute or amend any Tax election or submission, in each case that would result in an adverse tax effect on the Seller or the Purchaser.

#### Section 5.2 Closing Documents.

The Parties shall proceed diligently and in good faith to attempt to settle, on or before the Closing Date, or such earlier date as may be expressly set forth herein, the contents of all Closing Documents to be executed and delivered by the Seller and the Purchaser.

#### Section 5.3 Matters Requiring Notice.

(a) The Seller shall, promptly and in any event within two (2) Business Days of receipt thereof, provide to the Purchaser a copy of any written notices of any material breach or default that the Seller receives in respect of any Assumed Contract, any written notices that it receives with respect to any Permit from a Governmental Authority, or any written notices of a material breach or default under any Assumed Contract that the Seller sends to another Person, in each case after the date of this Agreement.

(b) The Seller, on the one hand, and the Purchaser, on the other hand, shall forthwith notify the other of:

(i) any notice or other communication received by the Seller, in the case of the Seller, or the Purchaser, in the case of the Purchaser, from any Person alleging that the Consent of such Person is or may be required in connection with the Transaction;

(ii) any inaccuracy of any representation or warranty of such Party contained in this Agreement at any time that would make such representation or warranty false in any material respect; and

(iii) any breach of any covenant or agreement of such Party contained in this Agreement at any time that is not cured within five (5) Business Days of such breach.

(c) Notwithstanding anything to the contrary in this Agreement, delivery of any notice pursuant to Section 5.3(b) and any access to or provision of information (including pursuant to Section 5.4) shall not modify any of the representations, warranties, covenants, or



agreements of the Parties (or rights or remedies with respect thereto) or the conditions to the obligations of the Parties under this Agreement.

Section 5.4 Access to Information/Confidentiality/Preservation of Books and Records.

(a) Subject at all times to the Confidentiality Agreement, from the date hereof until the earlier of (i) termination of this Agreement and (ii) the Closing, the Purchaser shall be entitled, through its Representatives (including its legal and financial advisors and accountants), to make such investigation of the Seller, the Purchased Assets, and the Assumed Liabilities and such examination of the Books and Records as it reasonably requests, provided that any such investigation and examination shall be conducted upon reasonable advance notice and in such a manner as does not materially disrupt the conduct of the Seller's business, and to make extracts and copies of such Books and Records (which shall include making available to Purchaser monthly financial statements of the Seller prepared by the Seller in the ordinary course of the Seller's business within fourteen (14) Business Days from the end of each applicable month or in connection with the CCAA Proceedings as soon as reasonably practicable (and in any event within two (2) Business Days) following the preparation thereof). At least five (5) Business Days prior to the Closing, the Seller shall provide the Purchaser with a statement setting forth a reasonably detailed estimate of all trade payables incurred in the ordinary course of business consistent with past practice from the Most Recent Balance Sheet Date to the Closing Date and all liabilities in respect of the Assumed Contracts incurred in the ordinary course of business consistent with past practice from the Most Recent Balance Sheet Date to the Closing Date. Subject to the following sentence, the Seller shall use its commercially reasonable efforts to cause their Representatives to cooperate with the Purchaser and its Representatives in connection with such investigation and examination. Any confidential information provided to the Purchaser shall be deemed "Confidential Information" under and as defined in the Confidentiality Agreement and shall be subject to the terms thereof. From the date hereof and until twelve (12) months following termination of this Agreement, the Purchaser hereby agrees to comply, and to direct its Representatives to comply, with the Confidentiality Agreement in accordance with its terms and to be bound by the terms of the Confidentiality Agreement and will remain bound thereby notwithstanding any termination of the Support Agreement. Upon any termination of this Agreement, the Purchaser shall, and shall cause its Representatives to, return or destroy, to the extent not unduly burdensome, any confidential information provided in connection with this Agreement.

(b) Subject to the occurrence of the Closing, the Seller shall, and shall cause its Representatives to, keep confidential and not disclose to any party any Confidential Information, unless (i) required by Law or the CCAA Proceedings, (ii) in compliance with a request or requirement of a Governmental Authority, (iii) such Confidential Information is generally available to the public at the time of such disclosure, other than as a result of a breach of this Section 5.4 by the Seller or its Representatives, or (iv) consented to in advance in writing by the Purchaser, in its sole and absolute discretion; provided that, in the case of (i) or (ii), the Seller shall, to the extent not legally prohibited, provide the Purchaser with prompt written notice of such request or requirement so the Purchaser may seek a protective order or other appropriate remedy. If a protective order or other remedy is not obtained and disclosure

is required, the Seller and its Representatives shall (A) disclose such information only to the extent required in the opinion of outside counsel and (B) give advance notice to the Purchaser of the information to be actually disclosed as far in advance as is reasonably possible. In any such event, the Seller shall use commercially reasonable efforts, at no cost to the Seller, to ensure that all Confidential Information that is so disclosed is accorded confidential treatment by the recipient thereof.

(c) The Seller shall, when practicable and in any event on or prior to June 30, 2015 (or such later date as may be agreed to by the Seller and the Purchaser), provide the Purchaser with the audited consolidated balance sheets, and the related consolidated statements of operations, consolidated statement of changes in shareholders' equity and consolidated statement of cash flows, of the Seller as of and for the fiscal year ended March 31, 2015, together with the notes thereto, which financial statements shall have been prepared in accordance with Accounting Standards for Private Enterprises (except that these financial statements will be prepared on a going concern basis) and the Seller's accounting policies and practices consistently applied throughout the periods included therein. The Parties agree that, without the prior consent of the auditor, such financial statements are special purpose financial statements prepared solely for the purposes of this Agreement for the Seller and the Purchaser and shall not be disclosed to any other Person.

#### Section 5.5 Use of Name.

(a) Subject to the occurrence of the Closing, from and after the Closing Date, the Seller will cease its operations and will not engage in any competitive business whatsoever, directly or indirectly, except for matters required by Law, the Court or the CCAA or relating to the CCAA Proceedings, including selling Excluded Assets, notifying customers, vendors and suppliers of the sale of the business, ministerial matters not related to the business of the Seller, and enforcing its rights and performing its obligations under this Agreement. The Purchaser acknowledges and agrees that, notwithstanding anything contained herein, the Seller maintains the right to dissolve, wind up or otherwise cease operations in any manner or at any time subsequent to the Closing Date as it may determine in its sole discretion, subject to the satisfaction of its obligations under this Agreement.

(b) As soon as reasonably practicable after the Closing (and in no event later than five (5) Business Days after the Closing), the Seller shall, and shall cause Nelson Holdings to, take all reasonably necessary action to change its name to a name that does not contain the words "Nelson" or "Education" and will, and will cause Nelson Holdings to, file such documents as are necessary to reflect such name change in each province in which the Seller and/or Nelson Holdings is incorporated or qualified to do business as a foreign entity. The Seller agrees to promptly notify the Purchaser of such name change and the names chosen by the Seller. Notwithstanding the foregoing, the Seller may refer to "Nelson Education" as a former name, including for legal and noticing purposes in the CCAA Proceedings, the winding down of the affairs of the Seller, or as otherwise required by applicable Law.

#### Section 5.6 Transition Services/Access of Seller to Records.

(a) The Purchaser shall provide the Seller with administrative services relating to any winding-up undertaken by the Seller and the CCAA Proceedings, record keeping, financial, tax and other reporting obligations, and other similar administrative services as reasonably requested by the Seller or its agents or advisors (the “Transition Services”) until 18 months from the Closing Date at no cost other than reimbursement of documented and invoiced reasonable third party costs incurred by the Purchaser in performing the Transition Services. Notwithstanding the foregoing, in no event shall the Purchaser be required to go out of pocket for any costs incurred in connection with the Transition Services, and the Transition Services shall not unreasonably interfere with the Purchaser’s employees in the performance of their duties or the Purchaser’s operation of its business.

(b) Subject to appropriate confidentiality provisions no less stringent than those included in the Confidentiality Agreement, the Seller shall, for a period of six (6) years from the Closing Date, have access to, and the right to copy, at its expense, for bona fide business purposes and for purposes of the CCAA Proceedings, and during usual and business hours, upon reasonable prior notice to the Purchaser, the Books and Records relating to the Seller’s business, the Purchased Assets and the Assumed Liabilities, excluding Books and Records created after the Closing. Notwithstanding anything to the contrary in this Agreement, the Purchaser shall not be required to provide any such access or disclose any such information to the Seller if such disclosure would (i) jeopardize any attorney-client or other legal privilege or (ii) contravene any applicable Laws, fiduciary duty, or binding confidentiality agreement entered into prior to the date hereof (but shall use commercially reasonable efforts to provide the Seller with alternative disclosure sufficient to convey the economic effect of the matter). The Purchaser shall retain and preserve all such Books and Records for such six (6) year period.

Section 5.7 Disclaimer of Warranties. Notwithstanding anything contained in this Agreement, it is the explicit intent of each Party that the Seller is not making any representation or warranty, express or implied, beyond those expressly given in Section 4.1 or contained in any other Closing Document or the Support Agreement, and it is understood that, except for such representations and warranties, the Purchaser and any Purchaser Designee take the Purchased Assets “as is” and “where is.” Without limiting the generality of the immediately foregoing, except for the representations and warranties specifically contained in Section 4.1 or in any other Closing Document or the Support Agreement, the Seller hereby expressly disclaims and negates any representation or warranty, express or implied, at common law, by statute, or otherwise, relating to the condition of the assets of the Seller; it being the intention of the Parties that the Purchased Assets are to be accepted by the Purchaser and any Purchaser Designee in their present condition and state of repair.

Section 5.8 Required Approvals.

(a) Prior to the Closing, upon the terms and subject to the conditions of this Agreement, and except as contemplated by this Agreement, the Parties shall use their commercially reasonable efforts to coordinate, cooperate and take, or cause to be taken, all commercially reasonable actions, and to do, or cause to be done, all things commercially reasonable (subject to any applicable Laws) to consummate the Closing and the Transaction as promptly as reasonably practicable, including (i) the preparation and filing of all forms, registrations and notices required pursuant to applicable Law to be filed to consummate the

Closing and the Transaction or in respect of the CCAA Proceedings, (ii) the determination of whether any action by or in respect of, or filing with, any Governmental Authority is required in connection with the Transaction, and (iii) the taking of such actions or making any such filings as are commercially reasonable to obtain any requisite approvals, authorizations, Consents, releases, orders, licenses, Permits, qualifications, exemptions, or waivers by any third party or Governmental Authority. In furtherance of the foregoing, the Parties agree that, as promptly as reasonably practicable following the execution of this Agreement, the Parties shall (i) make all filings required under any applicable Law, including pre-merger notification rules in any jurisdiction in which the Parties agree applicable Law requires a pre-merger notification filing (which filing shall be made promptly following such determination); and (ii) to comply at the earliest practical date with any request by a Governmental Authority for additional information, documents or other materials in respect of such filings, whether such request is formal or informal. Subject to applicable Law, each such Party shall promptly inform the other Party hereto of any oral communication with any Governmental Authority regarding any such filings or otherwise and each Party shall provide the other Party with a reasonable opportunity as practicable in the circumstances to review and comment on such agreements, documents, and filings, and any amendment or supplement thereto, and any response by such Party to any Governmental Authority with respect thereto, prior to filing such with or transmitting such to the relevant Governmental Authority, and will promptly provide the other Party with a copy of all such filings or transmittals made with the relevant Governmental Authority. No Party shall independently participate in any substantive meeting or discussion, either in person, by telephone, or by electronic means, with any Governmental Authority in respect of any such filings, investigation, or other inquiry regarding the Transaction without giving the other Parties hereto prior notice of the meeting and, to the extent permitted by such Governmental Authority, the opportunity to attend and/or participate. Subject to applicable Law, the Parties will consult and cooperate with one another in connection with any analyses, appearances, presentations, memoranda, briefs, arguments, opinions, and proposals made or submitted by or on behalf of any Party hereto with respect to the Transaction relating to proceedings under any applicable Law. The Seller shall be responsible for and shall pay all fees in respect of any required pre-merger notification filings.

(b) The Parties shall use their best efforts to take all reasonable steps as may be commercially reasonable to obtain an approval from, to resolve any objection or assertion by, or to resolve an action or proceeding by any Governmental Authority, whether by judicial or administrative action, challenging this Agreement or the consummation of the Transaction or the performance of obligations hereunder under any applicable Law. Notwithstanding the foregoing, the Purchaser will not be obligated to commit to the divestiture of any assets or business of the Purchaser (or any Affiliate of the Purchaser) or any Purchased Assets, or to any commercially unreasonable limitations on the conduct of its business or in respect of any of the Purchased Assets.

Section 5.9 Publicity. Except as otherwise provided herein or required by applicable Law (including any Order by the Court) or filings by the Seller with, or in any proceeding before, the Court, neither Party, to the extent reasonably practicable, shall issue any press release, provide notice to any customers or suppliers, or make any public announcement concerning this Agreement or the Transaction without the other Party's consent, not to be

unreasonably withheld, delayed, or conditioned; provided that, after Closing, the Purchaser may communicate in any way with Transferred Employees, clients, vendors, suppliers, and customers. Notwithstanding the foregoing, the Seller may provide notice to or advise its clients, vendors, suppliers, and customers in respect of the Agreement or the Transaction so long as such notice or advice is consistent with press releases, public announcements, or other communications previously approved by the parties, and the Seller shall use best efforts to advise the Purchaser in advance of any such communications.

Section 5.10 Certain Matters Relating to Canadian Employees.

(a) The Purchaser and/or, as applicable, one or more Purchaser Designees shall, at least five (5) calendar days prior to the Closing Date, offer to employ, on and after the Closing Date, all the Employees of the Seller listed on Section 4.1(q)(i) of the Disclosure Letter and all Employees hired by the Seller after the date hereof in accordance with Section 5.1 on terms and conditions of employment that are, unless otherwise agreed to in an employment agreement entered into pursuant to Section 6.1(h) below, substantially the same in the aggregate as the terms and conditions relating to their employment on the day immediately preceding the Closing Date, save and except recognition of prior service which will be in accordance with Section 5.10(f). At least ten (10) calendar days prior the Closing Date, the Seller shall provide the Purchaser and/or, as applicable, one or more Purchaser Designees with the names of the Employees of the Seller listed on Section 4.1(q)(i) of the Disclosure Letter and all Employees hired by the Seller after the date hereof in accordance with Section 5.1 to enable the Purchaser and/or, as applicable, one or more Purchaser Designees to make the offers in the previous sentence.

(b) Each Employee who accepts an offer of employment from the Purchaser or a Purchaser Designee and is hired by the Purchaser or a Purchaser Designee is referred to herein as a "Transferred Employee."

(c) Notwithstanding Section 5.10(a), nothing herein expressed or implied shall confer upon any of the Employees of the Seller or any Transferred Employees any right to employment or continued employment for any specified period, of any nature or kind whatsoever under or by reason of this Agreement.

(d) Effective upon the Closing Date, the Seller hereby waives, for the benefit of the Purchaser and its Affiliates only, any and all restrictions in any Employee Benefit Plan or Contract relating to (i) non-competition with the Seller, (ii) non-solicitation of the Seller's Employees or customers, or (iii) maintenance of confidentiality of any information for the benefit of the Seller, in each case, with or covering any Transferred Employee.

(e) Without limiting the scope of Excluded Liabilities under Section 2.7(g), other than under Section 2.5(d) and Section 2.6(c), the Seller will continue to be responsible for all obligations and liabilities for wages, salary, incentive compensation, bonuses, severance pay, termination pay, notice of termination of employment or pay in lieu of such notice, damages for wrongful dismissal or other employee benefits or claims for any Employee who does not

accept an offer of employment pursuant to Section 5.10(a) and does not become a Transferred Employee.

(f) The Purchaser shall grant or cause to be granted to all Transferred Employees credit after the Closing Date for all service with the Seller for all purposes, including for purposes of participation and vesting under any employee benefit or compensation plans, programs, agreements or arrangements maintained by the Purchaser or any of its Affiliates for the benefit of such Transferred Employees and for purposes of determining entitlements to termination and severance payments for such Transferred Employees; provided that the foregoing shall not apply (i) with respect to benefit accrual under any defined benefit pension plan or (ii) to the extent that its application would result in a duplication of benefits with respect to the same period of service.

(g) Subject to applicable Laws, the Seller shall cooperate with the Purchaser and shall permit the Purchaser and/or, as applicable, one or more Purchaser Designees reasonable access during normal business hours prior to the Closing Date (i) subject to the prior agreement of the Seller's chief executive officer, to meet with Employees at such times as the Purchaser or a Purchaser Designee shall reasonably request, (ii) subject to any restrictions imposed under applicable Law and to the prior agreement of the Seller's chief executive officer, to speak with such Employees' managers and supervisors (in each case with appropriate authorizations and releases from such Employees) who are to receive an offer of employment by the Purchaser or a Purchaser Designee, (iii) to distribute to such Employees such forms and other documents relating to potential employment by the Purchaser or a Purchaser Designee after the Closing, and (iv) subject to any restrictions imposed under applicable Law and to the prior agreement of the Seller's chief executive officer, to permit the Purchaser, upon request, to review personnel files and other relevant employment information regarding such Employees with appropriate authorizations and releases from such Employees.

(h) Following the Closing, the Seller and the Purchaser shall cooperate reasonably with each other to provide an orderly administrative transition to the Purchaser and/or, as applicable, one or more Purchaser Designees of the Transferred Employees, including the provision by the Seller to the Purchaser of all necessary or appropriate Books and Records with respect to each Transferred Employee.

(i) For the avoidance of doubt, the Seller will not seek to recover from any Transferred Employee any retention payments previously paid to any such Transferred Employee.

(j) This Section 5.10 shall be binding upon and inure solely to the benefit of each of the Parties, and nothing in this Section 5.10, expressed or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever under or by reason of this Section 5.10. Without limiting the foregoing, no provision of this Section 5.10 will create any third-party beneficiary rights in any Employee or former Employee of the Seller or any Transferred Employees in respect of continued employment (or resumed employment) or any other matter. Nothing in this Section 5.10 is intended to interfere with the Purchaser's or any

of its Affiliate's right from and after the Closing to amend or terminate any Employee Benefit Plan or the employment of any Transferred Employee.

Section 5.11 Insurance Obligations.

(a) Prior to the Closing, the Seller shall use commercially reasonable efforts to cause the insurance policies identified for assignment in Section 5.11(a) of the Disclosure Letter to be assigned to the Purchaser and obtain any consents required in respect thereof. In the event the Seller is unable, despite the Seller's commercially reasonable efforts, to assign one or more of such policies to the Purchaser, the Seller shall use commercially reasonable efforts to cause the Purchaser to be named as an additional insured and loss payee on each such policy. Notwithstanding anything to the contrary contained herein, the Seller will not cancel, terminate or otherwise impair any such insurance policy (other than, in respect of any occurrence based policy with a policy period expiring after the Closing, a termination of any portion of the policy period occurring on or after the Closing), and, in the event that any such policy is so terminated, cancelled or otherwise impaired by the Seller, any Liability which would have otherwise been covered under such policy shall not be an Assumed Liability and instead shall be an Excluded Liability.

(b) In the event that the Seller succeeds in assigning one or more of the insurance policies identified for assignment in Section 5.11(a) hereof to the Purchaser, the Purchaser shall cause the Seller to be named as an additional insured and loss payee on each such policy concurrently with the effectiveness of such assignment. Notwithstanding anything to the contrary contained herein, the Purchaser will not cancel, terminate or otherwise impair any such transferred insurance policy (other than, in respect of any occurrence based policy with a policy period expiring after the Closing, a termination of any portion of the policy period occurring on or after the Closing), and, in the event that any such policy is so terminated, cancelled or otherwise impaired by the Purchaser, any Liability which would have otherwise been covered under such policy shall be treated as an Assumed Liability hereunder.

Section 5.12 Release. Notwithstanding any other provisions of this Agreement, effective as of the Closing Date, each of the Parties on behalf of itself and its Affiliates does hereby forever release and discharge the other Party hereto, its Affiliates, the Secured Lenders, and each of the foregoing's respective present and former direct and indirect shareholders, officers, directors, employees, auditors, advisors (including, without limitation, financial advisors), legal counsel and agents (collectively, the "Released Parties") from any and all present and future demands, claims, liabilities, actions, cause of action, counterclaims, suits, damages, judgments, executions, debts, sums of money, accounts, indebtedness, liens and obligations of whatever nature (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or not yet due) based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place prior to the Closing Date in connection with the Seller, the Seller's business, this Agreement, the Transaction, the Support Agreement, or the First Lien Credit Agreement (provided that such release, solely with respect to the First Lien Credit Agreement, the related security documents and any document ancillary thereto, will be effective immediately following the Settlement Time (as defined in the Payment and Settlement Agreement)) or the transactions contemplated thereby; provided, however, that (i) the Released Parties shall not include

Cengage Learning Inc. or any of its Affiliates, other than any Affiliates of Cengage Learning Inc. that are also present or former direct or indirect shareholders of the Seller which shall each be Released Parties, (ii) the Released Parties shall not be released from or in respect of their respective obligations under this Agreement, the Support Agreement, the Newco First Lien Credit Agreement, the Payment and Settlement Agreement, the Indemnification Agreements or any document ancillary to any of the foregoing, and (iii) in no event shall the release set forth in this Section 5.12 apply to any claims, losses, suits, demands, actions, causes of action, rights, costs, fees, expenses, judgments, damages, obligations, lawsuits and liabilities to the extent such claims, losses, suits, demands, actions, causes of action, rights, costs, fees, expenses, judgments, damages, obligations, lawsuits and liabilities are a result of any fraud, as adjudged by the express terms of a judgment rendered on a final non-appealable determination on the merits by a court of competent jurisdiction. Notwithstanding anything contained in the foregoing, no Affiliate of Cengage Learning Inc. shall be released from any claims, losses, suits, demands, actions, causes of action, rights, costs, fees, expenses, judgments, damages, obligations, lawsuits or liabilities based in whole or in part on any steps or actions taken or omissions in its capacity as a direct or indirect shareholder of Cengage Learning Inc. in respect of any matters relating to any contractual arrangements between the Seller and Cengage Learning Inc.

Section 5.13 Service List. The Seller shall, at least three (3) Business Days prior to serving its motion in support of the Approval and Vesting Order, provide the Purchaser's counsel with a copy of the service list to be used for the motion. The Purchaser's counsel shall be entitled to make any additions thereto, acting reasonably.

## ARTICLE VI

### CONDITIONS TO CLOSING

Section 6.1 Conditions for the Purchaser. The obligation of the Purchaser to consummate the Closing is subject to the satisfaction or waiver in writing by the Purchaser, at or before the Closing, of each of the following conditions:

(a) The Support Agreement shall not have been terminated in accordance with its terms;

(b) All of the covenants and agreements in this Agreement and the Support Agreement to be complied with or performed by the Seller on or before the Closing Date shall have been complied with and performed in all material respects (without giving effect to any limitation as to materiality set forth therein), and all conditions in this Agreement and the Support Agreement shall have been satisfied or waived in accordance with the terms of this Agreement or the Support Agreement, as applicable;

(c) The representations and warranties of the Seller (1) set forth in Section 4.1(a) (Organization, Corporate Power, Qualification, and Subsidiaries), Section 4.1(b) (Authorization of Agreements, Enforceability, No Conflicts, Etc.), Section 4.1(d) (Sufficiency of Assets) and Section 4.1(l) (Brokers) hereof shall be true and correct in all respects as of the date of this Agreement and as of the Closing Date as if made on the Closing Date (except for any



representation or warranty made as of a specified date, which shall be true and correct in all respects as of such specified date) and (2) set forth in Section 4.1, other than those described in the immediately preceding clause (1), shall be true and correct except as would not individually or in the aggregate constitute, or be reasonably likely to result in, a Material Adverse Effect (without giving effect to any limitation as to materiality set forth therein) as of the date of this Agreement and as of the Closing Date as if made on the Closing Date (except for any representation or warranty made as of a specified date, which shall be true and correct except as would not individually or in the aggregate constitute, or be reasonably likely to result in, a Material Adverse Effect (without giving effect to any limitation as to materiality set forth therein) as of such specified date);

(d) No Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any applicable Law (including any Order) that is in effect and has the effect of making the Transaction illegal or otherwise restraining or prohibiting consummation of the Transaction and which is not satisfied or resolved or pre-empted by the Approval and Vesting Order;

(e) The Court shall have entered the Approval and Vesting Order, and such Approval and Vesting Order (i) shall have become final and non-appealable, (ii) shall not have been stayed as of the Closing Date, stayed pending appeal, or vacated and (iii) shall not be amended, supplemented, or otherwise modified in a manner not acceptable to the Majority Initial Consenting First Lien Lenders;

(f) All requisite clearances or approvals under any antitrust, foreign investment, or trade regulation laws shall have been obtained;

(g) All clearances or approvals set forth on Section 6.1(g) of the Disclosure Letter shall have been obtained;

(h) Each of the management employees set forth on Section 6.1(h) of the Disclosure Letter shall have duly executed and delivered to the Purchaser an employment agreement, in form acceptable to the Majority Initial Consenting First Lien Lenders and the applicable management employee;

(i) The Seller shall have (i) conveyed to the Purchaser and/or, as applicable, one or more Purchaser Designees, the Owned Real Property, and (ii) assigned to the Purchaser and/or, as applicable, one or more Purchaser Designees, all of the Assumed Contracts (other than any contract that, in the opinion of the Purchaser, is not material to the Seller), in each case in accordance with the terms of the applicable Contracts; pursuant to Section 11.3 of the CCAA, the Approval and Vesting Order, or other order of the Court in form and substance satisfactory to the Majority Initial Consenting First Lien Lenders, or as otherwise acceptable to the Purchaser.

(j) Since the date of this Agreement, no Material Adverse Effect shall have occurred and be continuing;

(k) The Seller shall have approved and delivered to the Supplemental Agent a copy of the Payment and Settlement Agreement, duly executed by the Seller; and

(l) The deliveries described in Section 7.2 shall have been made.

Section 6.2 Conditions for the Seller. The obligations of the Seller to consummate the Closing are subject to the satisfaction or waiver in writing by the Seller, at or before the Closing, of each of the following conditions:

(a) The Support Agreement shall not have been terminated in accordance with its terms;

(b) All of the covenants and agreements in this Agreement and the Support Agreement to be complied with or performed by the Purchaser or the Consenting First Lien Lenders, as applicable, on or before the Closing Date shall have been complied with and performed in all material respects (without giving effect to any limitation as to materiality set forth therein), and all conditions in this Agreement and the Support Agreement shall have been satisfied or waived in accordance with the terms of this Agreement or the Support Agreement, as applicable;

(c) The representations and warranties of the Purchaser set forth in Section 4.2 shall be true and correct in all material respects (without giving effect to any limitation as to materiality set forth therein), in each case, as of the date of this Agreement and as of the Closing Date as if made on the Closing Date (except for any representation or warranty made as of a specified date, which shall be true and correct in all material respects (without giving effect to any limitation as to materiality set forth therein) as of such specified date);

(d) No Governmental Authority of competent jurisdiction shall have enacted, issued, promulgated, enforced, or entered any applicable Law (including any Order) that is in effect and has the effect of making the Transaction illegal or otherwise restraining or prohibiting consummation of the Transaction and which is not satisfied or resolved or pre-empted by the Approval and Vesting Order;

(e) The Court shall have entered the Approval and Vesting Order, and such Approval and Vesting Order (i) shall have become final and non-appealable, (ii) shall not have been stayed, stayed pending appeal, or vacated and (iii) shall not have been amended, supplemented, or otherwise modified in a manner that results in such Approval and Vesting Order no longer being in form and substance reasonably satisfactory to the Seller;

(f) All requisite clearances or approvals under any antitrust, foreign investment, or trade regulation laws and set forth on Section 6.2(f) of the Disclosure Letter shall have been obtained;

(g) The Supplemental Agent shall have approved the Payment and Settlement Agreement, subject to the Closing of the Transaction; and

(h) The deliveries described in Section 7.3 shall have been made.

## ARTICLE VII

### CLOSING

Section 7.1 Closing Arrangements. The consummation of the Transaction (the "Closing") shall take place at 10:00 a.m. on the third (3rd) Business Day following the date on which all of the conditions set forth in Article VI have been satisfied or waived (other than any conditions that can only be satisfied as of the Closing, but subject to the satisfaction or waiver of such conditions) or such other time and date as may be mutually agreed to by the Parties (the "Closing Date"), at the offices of Goodmans LLP, 333 Bay Street, Suite 3400, Toronto, ON M5H 2S7, or at such other place as may be mutually agreed to by the Parties.

Section 7.2 Seller's Deliveries. On or before the Closing Date, the Seller shall deliver or cause to be delivered the following items and documents to the Purchaser, with each such document to be effective as of the Closing:

(a) a certificate executed on behalf of the Seller representing and certifying that the conditions set forth in Section 6.1(b) and Section 6.1(c) have been fulfilled;

(b) the Cash and Cash Equivalents, net of the Cash Reserve, by wire transfer of immediately available funds to such accounts as are designated by the Purchaser two (2) Business Days prior to the Closing;

(c) the Bill of Sale, duly executed by the Seller;

(d) the Assignment of Intangible Property, duly executed by the Seller;

(e) the Assignment and Assumption Agreement, duly executed by the Seller;

(f) duly executed copies of all consents and approvals required to be obtained by the Seller hereunder as set forth on Section 7.2(f) of the Disclosure Letter, in form and substance reasonably satisfactory to the Purchaser; and

(g) such documents, instruments or information to the Title Company and to the Purchaser reasonably required in order to insure title to the Owned Real Property, to cause the Title Company to issue endorsements to the title policy or policies insuring title to the Owned Real Property;

(h) one (1) certified copy of the Approval and Vesting Order entered by the Court;  
and

(i) each other agreement or document to be executed, filed, or delivered in connection with the CCAA Proceedings necessary to consummate the transactions contemplated hereby, in form and substance reasonably satisfactory to the Purchaser.

Section 7.3 Purchaser's Deliveries. On or before the Closing Date, the Purchaser shall deliver or cause to be delivered the Purchase Price and the following items and documents to the Seller, with each such document to be effective as of the Closing:

- (a) a certificate executed on behalf of the Purchaser representing and certifying that the conditions set forth in Section 6.2(b) and Section 6.2(c) have been fulfilled;
- (b) the Bill of Sale, duly executed by the Purchaser;
- (c) the Assignment of Intangible Property, duly executed by the Purchaser and/or, as applicable, one or more Purchaser Designees;
- (d) the Assignment and Assumption Agreement, duly executed by the Purchaser and/or, as applicable, one or more Purchaser Designees;
- (e) the Newco First Lien Credit Agreement, duly executed by the Purchaser;
- (f) the Term Note in the principal amount of US\$200,000,000 in favour of the Seller, duly executed by the Purchaser;
- (g) a share certificate representing the Purchaser Preferred Shares in the name of the Seller, duly executed by the Purchaser; and
- (h) the Indemnification Agreements, duly executed by the Purchaser and/or, as applicable, one or more Purchaser Designees.

Section 7.4 Tax Matters.

(a) The Purchaser shall pay and shall be responsible for all federal, provincial and municipal Transfer Taxes, if any, occasioned by the conveyance of the Owned Real Property and the Purchased Assets from the Seller to the Purchaser and, as applicable, one or more Purchaser Designees, including any notarial fees incurred in connection therewith; provided, however, that (i) the Parties shall reasonably cooperate in availing themselves of any available exemptions from any such Transfer Taxes, and (ii) the Purchaser shall pay and shall be responsible for all other costs, fees, and expenses associated with the Transfer Taxes, notarial fees, and other costs, fees, and expenses described in this sentence (the "Transfer Costs"). The Purchaser shall be responsible for the preparation and filing of all Tax Returns relating to Transfer Taxes.

(b) The Seller and the Purchaser shall, as soon as possible after the Closing, jointly execute and file an election under Section 22 of the Tax Act and equivalent provisions of any applicable provincial or territorial regulation in respect of the sale of the Accounts Receivable and other assets that are described in Section 22 of the Tax Act and shall designate therein the applicable portion of the Purchase Price as the consideration paid by the Purchaser therefor (as determined in accordance with Section 7.4(b) of the Purchaser Schedule). The Parties shall each file such election with the Canada Revenue Agency forthwith after execution thereof (and, in any event, with their respective tax returns for the year of sale) to make such election.

(c) The Seller and the Purchaser shall, as soon as possible after the Closing, jointly make the election under Subsection 167(1) of Part IX of the ETA, in prescribed form and containing the prescribed information, and under the corresponding provisions of any applicable provincial legislation imposing a value-added or transfer tax, in order to exempt the purchase of the Purchased Assets by the Purchaser from the harmonized sales tax or any provincial value-added or transfer tax, and shall file each such joint election in compliance with the requirements of the ETA and the corresponding provisions of any applicable provincial legislation, as applicable.

(d) The Purchase Price and the Closing Date Assumed Liabilities shall be allocated among the Purchased Assets as set forth on Section 7.4(d) of the Disclosure Letter, including the allocations set forth in Section 7.4(b) of the Purchaser Schedule (collectively, the "Allocation Schedule"). Except to the extent otherwise required by Law, neither the Seller nor the Purchaser shall take, or shall permit any of its Affiliates to take, a Tax position (whether on a Tax Return or otherwise) that is inconsistent with the allocation reflected in the Allocation Schedule.

(e) The Purchaser shall be responsible for any Property Taxes (including any special or supplemental assessments) with respect to any Purchased Asset allocable to any taxable period; provided that neither the Purchaser nor any Purchaser Designee shall be required to make any payment with respect to prepaid Property Taxes described in Section 2.1(h).

(f) The Purchaser and the Seller shall furnish or cause to be furnished to each other, as promptly as reasonably practicable, such information in their possession and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund, or other filings relating to Tax matters, or in connection with any Tax audit or other Tax proceeding.

**Section 7.5 Cash Reserve.** The Seller shall deliver to the Purchaser, within three (3) Business Days by wire transfer of immediately available funds to such accounts as are designated by the Purchaser, any funds remaining in the Cash Reserve on the earlier of (i) 18 months after the Closing Date and (ii) the date the administration of the Seller's wind-down is completed.

**Section 7.6 Post-Closing Deliveries.** Not later than fifteen (15) Business Days following the Closing Date, the Seller shall deliver, or cause to be delivered, to the Purchaser the Closing Date Balance Sheet, together with a notice setting out the amount of the Closing Date Assumed Liabilities, which notice and Closing Date Balance Sheet shall form the basis of the Purchase Price allocation referred to in Section 7.4(d).

## ARTICLE VIII

### TERMINATION OF AGREEMENT

**Section 8.1 Termination.** This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of the Seller and the Purchaser, in each Party's sole and absolute discretion;

(b) by the Purchaser, if the Closing has not occurred on or prior to the Outside Date; provided that the failure of the Closing to occur on or prior to the Outside Date is not a result of or caused by the Purchaser's material breach of this Agreement;

(c) by the Purchaser, in the event (1) of any inaccuracy in any of the Seller's representations or warranties contained in this Agreement or any breach of any of the Seller's covenants or agreements contained in this Agreement which, individually or in the aggregate with all other such inaccuracies and breaches, (i) would result in a failure of a condition set forth in Section 6.1 and (ii) is either incapable of being cured or, if capable of being cured, is not cured in all material respects within the earlier of (x) five (5) calendar days after written notice thereof and (y) the Outside Date; provided that the Purchaser shall not have the right to terminate this Agreement under this Section 8.1(c) at a time when the Seller has (or would have after the passage of time) the right to terminate this Agreement under Section 8.1(d) or (2) since the date of this Agreement, a Material Adverse Effect (as determined on the date of such termination) shall have occurred and be continuing;

(d) by the Seller, in the event of any inaccuracy in any of the Purchaser's representations or warranties contained in this Agreement or any breach of any of the Purchaser's covenants or agreements contained in this Agreement which, individually or in the aggregate with all other such inaccuracies and breaches, (i) would result in a failure of a condition set forth in Section 6.2 and (ii) is either incapable of being cured or, if capable of being cured, is not cured in all material respects within the earlier of (x) five (5) calendar days after written notice thereof and (y) the Outside Date; provided that the Seller shall not have the right to terminate this Agreement under this Section 8.1(d) at a time when the Purchaser has (or would have after the passage of time) the right to terminate this Agreement under Section 8.1(c);

(e) by the Purchaser, if the Seller shall fail to file the application for the Initial Order within two (2) Business Days of the date of this Agreement;

(f) by the Purchaser, if the Approval and Vesting Order has not been granted on or prior to the tenth (10th) calendar day after the Filing Date;

(g) by either the Seller or the Purchaser, if a Governmental Authority of competent jurisdiction shall have issued a final Order or taken any other final, non-appealable action, in each case, having the effect of permanently making the Transaction illegal or otherwise permanently restraining or prohibiting consummation of the Transaction;

(h) by either the Seller or the Purchaser, if the Support Agreement is terminated in accordance with the terms thereof; and

(i) by the Seller or the Purchaser if the Seller repays all amounts outstanding under the First Lien Credit Agreement and all Transaction Expenses prior to the completion of the Transaction.

#### Section 8.2 Effect of Termination.

(a) In the event of any termination of this Agreement pursuant to Section 8.1, this Agreement (other than the provisions set forth in this Section 8.2, Section 8.3 and ARTICLE IX) shall forthwith become null and void and be deemed of no further force and effect. Subject to the provisions set forth in the preceding sentence, there shall be no liability or obligation thereafter on the part of any Party, except for fraud or arising out of the willful breach of any provision of this Agreement prior to such termination. Notwithstanding anything contained herein to the contrary, the termination of this Agreement shall not affect the rights or obligations of the Parties under the Confidentiality Agreement.

#### Section 8.3 Expense Reimbursement; Seller Remedies.

(a) The Seller will pay, or cause to be paid, to the Purchaser the Transaction Expenses, net of any applicable withholdings, if this Agreement is terminated pursuant to Section 8.1(a), Section 8.1(b), Section 8.1(c), Section 8.1(e), Section 8.1(f), Section 8.1(g), or Section 8.1(h), which Transaction Expenses shall be paid no later than three (3) Business Days following receipt of non-itemized invoices documenting such Transaction Expenses following such termination. If it is determined that any payment pursuant to the sentence above would be subject to any withholdings, then the Seller shall make "gross-up" payments that cover the full amount of such withholdings on an after-tax basis.

(b) If this Agreement is terminated pursuant to Section 8.1(d), the Purchaser and/or a Purchaser Designee shall pay, or cause to be paid to, the Seller the Purchaser Termination Fee by a reduction of claims under the First Lien Credit Agreement within two (2) Business Days of the date of such termination. The payment of the Purchaser Termination Fee shall be the sole and exclusive remedy of the Seller for any breach or default of the Purchaser of this Agreement (other than (i) reimbursement of costs and expenses if and as required pursuant to Section 8.3(a) and (ii) prior to the termination of this Agreement, specific performance but only as expressly permitted under Section 9.9(b) and (iii) with respect to any covenant or agreement required by this Agreement to be performed by the Purchaser after the Closing), and the Seller shall irrevocably waive and release the Purchaser Parties, as a condition to payment of the Purchaser Termination Fee (but subject to the receipt thereof), from any and all statutory, equitable, legal, or common law claims or remedies that the Seller may have against any of the Purchaser Parties in respect of any breach of or default under this Agreement. For purposes hereof, "Purchaser Parties" shall mean, collectively, the Purchaser and any of their respective former, current, or future directors, officers, employees, agents, general or limited partners, managers, members, shareholders, Affiliates, or assignees or any former, current, or future director, officer, employee, agent, general or limited partner, manager, member, shareholder, Affiliate, or assignee of any of the foregoing.

(c) The Parties acknowledge that the agreements contained in this Section 8.3 are an integral part of the transactions contemplated in this Agreement, that the damages resulting

from termination of this Agreement under circumstances where the Seller is entitled to the Purchaser Termination Fee are uncertain and incapable of accurate calculation, and that the delivery of the Purchaser Termination Fee to the Seller is not a penalty but rather shall constitute liquidated damages in a reasonable amount that will compensate the Seller in the circumstances where the Seller is entitled to the Purchaser Termination Fee for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the Transaction contemplated hereby, and that, without these agreements, the Seller would not enter into this Agreement.

## ARTICLE IX

### MISCELLANEOUS

Section 9.1 Survival. The representations and warranties of the Parties in this Agreement, any Closing Documents, or in any agreement, document or certificate delivered pursuant to or in connection with this Agreement or the transactions contemplated hereby (including, for certainty, the Support Agreement) shall not survive the Closing. For certainty, the covenants and agreements contained in this Agreement or such other instruments delivered in connection with this Agreement that by their terms apply or are to be performed in whole or in part after the Closing shall survive Closing. The Seller shall have no liability (except in cases of fraud or knowing or intentional misrepresentation), whether before or after the Closing, for any breach of the Seller's representations and warranties, and the Purchaser acknowledges that its exclusive remedy for any such breach shall be the termination of this Agreement prior to Closing (but only if permitted by Section 8.1(c)).

Section 9.2 Non-Recourse. No past, present or future director, officer, employee, incorporator, member, partner, shareholder, affiliate, agent, attorney or representative of the respective Parties hereto, or any of their respective Affiliates not a party hereto, and no lender party to the First Lien Credit Agreement (other than in respect of Section 8.3(b)) nor any agent of any such lender party, in each case, in such capacity, shall have any liability for any obligations or liabilities (including in connection with any representations or warranties) of the Purchaser or the Seller, as applicable, under this Agreement and the completion of the transactions contemplated hereby.

Section 9.3 Relationship of the Parties. Nothing in this Agreement shall be construed so as to make the Purchaser or any Affiliate of the Purchaser a partner of the Seller.

Section 9.4 Amendment of Agreement. This Agreement may not be supplemented, modified, or amended except by a written agreement executed by each Party.

Section 9.5 Notices. Any Notice shall be in writing and shall be deemed to have been duly given or made when personally delivered, sent by facsimile, or when mailed by registered or certified mail, postage prepaid, return receipt requested, addressed or directed as follows, or as may be furnished hereafter by notice, in writing, to the other Party on at least three (3) Business Days' prior notice, to the following Parties:



(a) If to the Purchaser, to:

682534 N.B. Inc.

[•]

[•]

Attention: [•]

Facsimile: [•]

with a copy (which shall not constitute notice) given in like manner to:

Willkie Farr & Gallagher LLP

787 Seventh Avenue

New York, NY 10019

Attention: Paul V. Shalhoub, Esq.

Mark A. Cognetti, Esq.

Facsimile: (212) 728-8111

with a copy (which shall not constitute notice) given in like manner to:

Bennett Jones LLP

3400 One First Canadian Place

P.O. Box 130

Toronto, ON, M5X 1A4

Attention: Kevin Zych, Esq.

Sean Zweig, Esq.

Facsimile: (416) 863-1716

(b) If to the Seller, to:

c/o Nelson Education Ltd.

1120 Birchmount Road

Scarborough, ON, M1K 5G4

Attention: Greg Nordal

Facsimile: (416) 752-8101

with a copy (which shall not constitute notice) given in like manner to:

Goodmans LLP

Bay Adelaide Centre

333 Bay Street, Suite 3400

Toronto, ON M5H 2S7

Attention: Robert Chadwick, Esq.

Caroline Descours, Esq.

Facsimile: (416) 979-1234

Any Notice which is delivered or is sent by facsimile shall be deemed to have been validly and effectively given and received on the date it is delivered or sent, unless it is delivered or sent

after 5:00 p.m. New York City time on any given day or on a day that is not a Business Day, in which case it shall be deemed to have been validly and effectively given and received on the Business Day next following the day it was delivered or sent; provided that, in the case of a Notice sent by facsimile, it shall not be deemed to have been sent, unless there has been confirmation of transmission.

Section 9.6 Fees and Expenses. The Parties agree that, except as otherwise expressly provided in this Agreement (including in Section 5.8, Section 7.4(a), and Section 8.3), each Party shall bear and pay all costs, fees and expenses that it incurs, or which may be incurred on its behalf, in connection with this Agreement and the Transaction.

Section 9.7 Governing Law; Jurisdiction; Service of Process. This Agreement shall be governed by and construed in accordance with the CCAA, to the extent applicable, and the laws of the Province of Ontario and the federal laws applicable therein, without giving effect to any principles of conflicts of law to the extent the Laws of another jurisdiction would apply as a result of the application thereof. Without limiting any Party's right to appeal any order of the Court, the Parties agree that if any dispute arises out of or in connection with this Agreement or any of the documents executed hereunder or in connection herewith, the Court shall have exclusive personal and subject matter jurisdiction and shall be the exclusive venue to resolve any and all disputes relating to the Transaction. The Court shall have sole jurisdiction over such matters and the parties affected thereby and the Purchaser and the Seller hereby consent and submit to such jurisdiction; provided, however, that, if the CCAA Proceedings have closed and cannot be reopened, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the Province of Ontario and any appellate court thereof, for the resolution of any such claim or dispute. The Parties hereby irrevocably waive, to the fullest extent permitted by applicable Law, any objection which they may now or hereafter have to the laying of venue of any such dispute brought in such court or any defense of inconvenient forum for the maintenance of such dispute. Each of the Parties hereto agrees that a judgment in any such dispute may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by Law. In the event any such action, suit or proceeding is commenced, the Parties hereby agree and consent that service of process may be made, and personal jurisdiction over any Party hereto in any such action, suit, or proceeding may be obtained, by service of a copy of the summons, complaint, and other pleadings required to commence such action, suit, or proceeding upon the Party at the address of such Party set forth in Section 9.5, unless another address has been designated by such Party in a notice given to the other Parties in accordance with the provisions of Section 9.5.

Section 9.8 Further Assurances. Subject to the other provisions of this Agreement, each of the Parties hereto agrees to execute, acknowledge, deliver, file, and record such further certificates, amendments, instruments, and documents, and to do all such other acts and things, as may be reasonably requested by any other Party in order to carry out the intent and purpose of this Agreement at the expense of the requesting Party.

Section 9.9 Specific Performance.

(a) The Seller acknowledges that the Purchaser would be damaged irreparably in the event that this Agreement is not performed by the Seller in accordance with its specific terms

or is otherwise breached by the Seller or the Seller fails to consummate the Closing as required hereunder, subject to its right to terminate this Agreement under Section 8.1(d), Section 8.1(g), Section 8.1(h), and Section 8.1(i), and that, in addition to any other remedy that the Purchaser may have under law or equity, the Purchaser shall be entitled, without proof of irreparable harm, to injunctive relief to prevent breaches of the terms of this Agreement and to seek to enforce specifically the terms and provisions hereof that are required to be performed by the Seller. For greater certainty, the Purchaser acknowledges that its rights in the event that this Agreement is not performed by the Seller in accordance with its specific terms or is otherwise breached by the Seller or the Seller fails to consummate the Closing as required hereunder shall at all times be subject to Section 9.2.

(b) The Purchaser acknowledges that the Seller would be damaged irreparably in the event that this Agreement is not performed by the Purchaser in accordance with its specific terms or is otherwise breached by the Purchaser and that the Seller shall be entitled to seek injunctive relief to prevent breaches of the terms of this Agreement and to enforce specifically the terms and provisions hereof that are required to be performed by the Purchaser, other than the Purchaser's obligation to consummate the Transaction. The Seller acknowledges and agrees that the Seller is not entitled under any circumstances to obtain specific performance of the Purchaser's obligation to consummate the Transaction, and that the Seller's sole remedy on a failure of the Purchaser to consummate the Transaction is set forth in Section 8.3(b).

Section 9.10 Entire Agreement. Except as set forth herein, this Agreement, the Support Agreement, the Confidentiality Agreement, the Newco First Lien Credit Agreement, and the Payment and Settlement Agreement constitute the full and entire agreement between the Parties hereto pertaining to the Transaction and supersede all other prior agreements, understandings, negotiations, and discussions, whether oral or written, with respect thereto made by any Party.

Section 9.11 Waiver. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision (whether or not similar) nor shall any waiver constitute a continuing waiver unless otherwise expressed or provided. All waivers hereunder must be in writing to be effective.

Section 9.12 Assignment. Neither the Seller nor the Purchaser may assign or otherwise transfer their respective rights and/or obligations hereunder (or agree to do so) without the prior written consent of the other Party, which consent shall be in such other Party's sole and absolute discretion; provided that the Purchaser may, without the consent of the Seller, assign or transfer any or all of its right and/or obligations hereunder to one or more of its Affiliates (it being understood that the Purchaser nonetheless shall remain liable for the performance of all of the Purchaser's obligations hereunder to the extent not performed by the assignee or any Purchaser Designee); provided, further, that, after Closing, the Purchaser may, without the consent of the Seller, assign or transfer any or all of its right and/or obligations hereunder. Any assignment or other transfer not permitted under this Section 9.12 shall be null and void *ab initio*.

Section 9.13 Successors and Assigns. This Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

Section 9.14 No Third-Party Beneficiaries. Nothing in this Agreement is intended to, or shall, confer any third-party beneficiary or other rights or remedies upon any Person other than the Parties hereto and the Released Parties.

Section 9.15 Severability of Provisions. If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future Law or regulation, and if the rights or obligations of any Party hereto under this Agreement will not be materially and adversely affected thereby, (a) such provision will be fully severable, (b) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof, (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement and (d) in lieu of such illegal, invalid or unenforceable provision, the Parties shall negotiate in good faith to add to this Agreement a legal, valid and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.

Section 9.16 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original hereof, and all of which shall constitute a single agreement effective as of the date hereof. Any delivery of an executed counterpart of this Agreement by facsimile or electronic mail shall be as effective as delivery of a manually executed counterpart of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Asset Purchase Agreement to be executed as of the day and year first above written.

**SELLER:**

**PURCHASER:**

NELSON EDUCATION LTD.

682534 N.B. Inc.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

**Exhibit A**

**Form of Approval and Vesting Order**

**Exhibit B**

**Assignment and Assumption Agreement**

**Exhibit C**

**Assignment of Intangible Property**



**Exhibit D**

**Bill of Sale**

**Exhibit E**

**Initial Order**

**Exhibit F**

**Newco First Lien Credit Agreement**

**Exhibit G**

**Payment and Settlement Agreement**

6442522

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

Court File No: CV15-10961-00CL

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 DEAN MULLETT  
(sworn May 11, 2015)**

**GOODMANS LLP**

Barristers & Solicitors  
333 Bay Street, Suite 3400  
Toronto, Canada M5H 2S7

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rchadwick@goodmans.ca  
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Lawyers for the Applicants

# **TAB 3**

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

|                |   |                |
|----------------|---|----------------|
| THE HONOURABLE | ) |                |
|                | ) | ●, THE ●       |
| JUSTICE ●      | ) | DAY OF ●, 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

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by Nelson Education Ltd. (“**Nelson**”) and Nelson Education Holdings Ltd. (the “**Applicants**”) for an order, *inter alia*, approving the sale transaction contemplated by an asset purchase agreement (the “**Sale Agreement**”), the form of which is appended to the affidavit of Dean Mullet sworn May 11, 2015 (the “**Mullet Affidavit**”), to be entered into by Nelson (the “**Seller**”) and 682534 N.B. Inc. (the “**Purchaser**”) upon the entry of this Approval and Vesting Order (the “**Transaction**”), and vesting in the Purchaser or its nominees all of the Seller’s right, title and interest in and to the Purchased Assets (as defined in the Sale Agreement), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Mullet Affidavit, the affidavit of Greg Nordal sworn May 11, 2015 (the “**Nordal Affidavit**”), the Pre-Filing Report of Alvarez & Marsal Canada Inc. in its capacity as the Court-appointed monitor of the Applicants (the “**Monitor**”) dated May 11, 2015, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the First Lien Steering Committee and the First Lien Agent (each as defined in the Mullett

Affidavit), and counsel for the Second Lien Agent (as defined in the Mullet Affidavit), and no one appearing for any other person on the service list, although properly served as appears from the affidavit of ● sworn ●, 2015, filed:

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that, unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Mullett Affidavit or in the Sale Agreement, as applicable.
3. THIS COURT ORDERS AND DECLARES that the Transaction and all associated steps, transactions, and releases effected thereby are hereby approved, and the execution of the Sale Agreement by the Seller is hereby authorized and approved, *nunc pro tunc*, with such minor amendments as the Seller and the Purchaser may deem necessary. The Seller is hereby authorized and directed to complete the Transaction, subject to the terms of the Sale Agreement, and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser and/or one or more entities nominated by the Purchaser to take title to the Purchased Assets in accordance with the Sale Agreement (each a “**Purchaser Nominee**”).
4. THIS COURT ORDERS that the Seller shall deliver to the Purchaser any funds remaining in the Cash Reserve on the terms set out in the Sale Agreement.
5. THIS COURT ORDERS that the Applicants, the Monitor, the Purchaser, the First Lien Agent, the Supplemental Agent (as defined in the Nordal Affidavit) and any other Person required to make any distributions or deliveries or take any steps or actions related to the Transaction are hereby authorized and directed to complete such distributions or deliveries and to take any such steps or actions, as the case may be, in accordance with the terms of the Sale Agreement, and such distributions, deliveries, steps and actions are hereby approved. No such Person shall incur any liability with respect to such distributions, deliveries, steps and actions, save and except for any gross negligence or wilful misconduct on its part.



6. THIS COURT ORDERS AND DECLARES that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Monitor's Certificate**") all of the Seller's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser and/or one or more Purchaser Nominees, free and clear of and from any and all right, title, interest, priorities, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, assignments, judgments, options, levies, charges, other financial or monetary claims (including claims provable in bankruptcy should one or more of the Applicants be adjudged bankrupt) or encumbrances, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") by or of any and all persons or entities of any kind whatsoever including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice Newbould dated May 12, 2015, as may be amended and/or restated from time to time; (ii) all Claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which, including Claims, are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

7. THIS COURT ORDERS that upon the registration in the Land Registry Office for the Land Titles Division of Toronto (No. 80) of an Application for Vesting Order in the form prescribed by the *Land Titles Act* (Ontario) and/or the *Land Registration Reform Act* (Ontario), the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

8. THIS COURT ORDERS that the Monitor may rely on written notice from the Seller and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall

incur no liability with respect to the delivery of the Monitor's Certificate, save and except for any gross negligence or wilful misconduct on its part.

9. THIS COURT ORDERS AND DIRECTS the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

10. THIS COURT ORDERS that the Stockholders and Registration Rights Agreement (as defined in the Nordal Affidavit) shall be effective and binding on all holders of the common shares of Purchaser Holdco and any Persons entitled to receive common shares of Purchaser Holdco in connection with the Transaction immediately upon issuance of the common shares of Purchaser Holdco to such Persons, with the same force and effect as if such Persons were signatories to the Stockholders and Registration Rights Agreement.

11. THIS COURT ORDERS that, provided that the Sale Agreement has not been terminated, any plan of compromise or arrangement that may be filed by the Applicants shall not derogate or otherwise affect any right or obligation of the Seller or the Purchaser under the Sale Agreement unless otherwise agreed by the Seller and the Purchaser.

12. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Seller is authorized and permitted to disclose and transfer to the Purchaser and/or one or more Purchaser Nominees all human resources and payroll information (including personal information) in the Seller's records pertaining to the Seller's past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Seller.

13. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of one or more of the Applicants and any bankruptcy order issued pursuant to any such applications;

- (c) any assignment in bankruptcy made in respect of one or more of the Applicants;  
and
- (d) the provisions of any federal or provincial statute,

the entering into of the Sale Agreement and the vesting of the Purchased Assets in the Purchaser and/or one or more Purchaser Nominees pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Applicants and shall not be void or voidable by creditors or claimants of the Applicants, nor shall they constitute nor be deemed to be settlements, fraudulent preferences, assignments, fraudulent conveyances, transfers at undervalue, or other reviewable transactions under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

15. THIS COURT ORDERS that: (i) on or after the Closing Date, the Applicants are hereby permitted to execute and file articles of amendment or such other documents or instruments as may be required to change their respective legal names in accordance with section 5.5(b) of the Sale Agreement, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective and shall be accepted by the applicable Governmental Authority without the requirement (if any) of obtaining director or shareholder approval pursuant to any federal or provincial legislation; and (ii) upon the official change to the legal names of the Applicants that is to occur as soon as reasonably practicable after the Closing Date in accordance with 5.5(b) of the Sale Agreement, the names of the Applicants in the within title of proceedings shall be deleted and replaced with the new legal names of the Applicants, and any document filed thereafter in these proceedings (other than the Monitor's Certificate) shall be filed using such revised title of proceedings.

16. THIS COURT ORDERS that, upon the delivery of the Monitor's Certificate to the Purchaser, each of Nelson, Holdings, the Purchaser, their respective Affiliates, the First Lien Agent, the Supplemental Agent, the First Lien Lenders, and each of the foregoing's respective

present and former direct and indirect shareholders, officers, directors, employees, auditors, advisors (including, without limitation, financial advisors), legal counsel and agents (collectively, the “**Released Parties**”) are hereby forever released and discharged from any and all present and future demands, claims, liabilities, actions, causes of action, counterclaims, suits, damages, judgments, executions, debts, sums of money, accounts, indebtedness, liens and obligations of whatever nature (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or not yet due) of another Released Party based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place prior to the Closing Date in connection with Nelson, Nelson’s business, the Sale Agreement, the Transaction, these proceedings, the Support Agreement, the Supplemental Support Agreement (as defined in the Nordal Affidavit), the Payment and Settlement Agreement, the First Lien Credit Agreement and the other Loan Documents (as defined in the First Lien Credit Agreement) (provided that such release, solely with respect to the First Lien Credit Agreement, the related security documents and any document ancillary thereto, will be effective immediately following the Settlement Time (as defined in the Payment and Settlement Agreement)) or the transactions contemplated by the foregoing; provided, however, that (i) the Released Parties shall not include Cengage Learning Inc. or any of its Affiliates, other than any Affiliates of Cengage Learning Inc. that are also present or former direct or indirect shareholders of Nelson which shall each be Released Parties, (ii) the Released Parties shall not be released from or in respect of their respective obligations under the Sale Agreement, the Support Agreement, the Supplemental Support Agreement, the Newco First Lien Credit Agreement, the Payment and Settlement Agreement, the Indemnification Agreements or any document ancillary to any of the foregoing, (iii) in no event shall the release set forth herein apply to any claims, losses, suits, demands, actions, causes of action, rights, costs, fees, expenses, judgments, damages, obligations, lawsuits and liabilities to the extent such claims, losses, suits, demands, actions, causes of action, rights, costs, fees, expenses, judgments, damages, obligations, lawsuits and liabilities are a result of any fraud, as adjudged by the express terms of a judgment rendered on a final non-appealable determination on the merits by a court of competent jurisdiction, and (iv) all obligations of Nelson and the other Loan Parties (as defined in the First Lien Credit Agreement) under the First Lien Credit Agreement and the other Loan Documents (as defined in the First Lien Credit Agreement) which by their terms expressly survive termination of the First Lien Credit Agreement and the other

Loan Documents (as defined in the First Lien Credit Agreement) or payment of the Obligations (as defined in the First Lien Credit Agreement) shall not be deemed released or discharged, including, without limitation, all obligations pursuant to Section 10.05 of the First Lien Credit Agreement. Notwithstanding anything contained in the foregoing, no Affiliate of Cengage Learning Inc. shall be released from any claims, losses, suits, demands, actions, causes of action, rights, costs, fees, expenses, judgments, damages, obligations, lawsuits or liabilities based in whole or in part on any steps or actions taken or omissions in its capacity as a direct or indirect shareholder of Cengage Learning Inc. in respect of any matters relating to any contractual arrangements between the Seller and Cengage Learning Inc.

17. 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, 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 the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order.

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**Schedule A – Form of Monitor’s Certificate**

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

**MONITOR’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Newbould of the Ontario Superior Court of Justice (the “**Court**”) dated May 12, 2015, Alvarez & Marsal Canada Inc. was appointed as the monitor (the “**Monitor**”) of the Applicants.

B. Pursuant to an Order of the Court dated ●, 2015 (the “**Approval and Vesting Order**”), the Court approved the Transaction contemplated by the asset purchase agreement made as of ●, 2015 (the “**Sale Agreement**”) between Nelson Education Ltd. (the “**Seller**”) and 682534 N.B. Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser and/or one or more Purchaser Nominees of all of the Seller’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section ● of the Sale Agreement have been satisfied or waived by the Seller and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement or the Approval and Vesting Order.

THE MONITOR CERTIFIES the following:

1. The Seller has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Seller and the Purchaser, as applicable; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**Alvarez & Marsal Canada Inc., in its capacity  
as Monitor of the Applicants, and not in its  
personal capacity**

Per: \_\_\_\_\_  
Name:  
Title:

**Schedule B – Real Property****PIN 06336-0087(LT)**

Part of Lot 16, Plan 4087, designated as Part 1 on Plan 64R-1540, save and except Part 1 on Plan 66R-22294, City of Toronto (formerly City of Scarborough)



**Schedule C – Claims to be deleted and expunged from title to Real Property**

1. Charge from Nelson Education Ltd. in favour of Royal Bank of Canada registered as Instrument No. AT1532304 on August 7, 2007;
2. Charge from Nelson Education Ltd. in favour of Royal Bank of Canada registered as Instrument No. AT1532305 on August 7, 2007; and
3. Transfer of Charge No. AT1532304 from Royal Bank of Canada to Wilmington Trust, National Association registered as Instrument No. AT3944542 on January 9, 2014.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

1. Site Plan Control Agreement in favour of the City of Scarborough registered as Instrument No. TB501932 on May 6, 1988;
2. Amending Site Plan Control Agreement in favour of the City of Scarborough registered as Instrument No. TB536238 on August 31, 1988; and
3. Site Plan Agreement registered as Instrument No. AT1094368 on March 24, 2006.

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

173

Court File No: CV15-10961-00CL

**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

**APPROVAL AND VESTING ORDER**

**GOODMANS LLP**

Barristers & Solicitors  
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Toronto, Canada M5H 2S7

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Lawyers for the Applicants

# TAB 4

Court File No. \_\_\_\_\_ CV15-10961-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

THE HONOURABLE \_\_\_\_\_ )  
 )  
JUSTICE \_\_\_\_\_● )  
 )  
 ) WEEKDAY●, THE # ●  
 ) DAY OF MONTH●, 20YR2015

~~B E T W E E N:~~

**PLAINTIFF**

Plaintiff

-and-

**DEFENDANT**

Defendant

**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

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by [~~RECEIVER'S NAME~~] in its capacity as the Court appointed receiver (the "Receiver") of the undertaking, property and assets of [~~DEBTOR~~] (the "~~Debtor~~"Nelson Education Ltd. ("Nelson") and Nelson Education Holdings Ltd. (the "Applicants")) for an order, *inter alia*, approving the sale transaction (the "~~Transaction~~") contemplated by an ~~agreement of asset purchase and sale agreement~~ (the "~~Sale Agreement~~") between the Receiver and [~~NAME OF PURCHASER~~] (the "~~Purchaser~~") dated [~~DATE~~] and

appended to the Report of the Receiver dated [DATE] (the "Report" "**Sale Agreement**"), the form of which is appended to the affidavit of Dean Mullett sworn May 11, 2015 (the "**Mullett Affidavit**"), to be entered into by Nelson (the "**Seller**") and 682534 N.B. Inc. (the "**Purchaser**") upon the entry of this Approval and Vesting Order (the "**Transaction**"), and vesting in the Purchaser or its nominees all of the Debtor/Seller's right, title and interest in and to the assets described Purchased Assets (as defined in the Sale Agreement (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the ~~Report~~ Mullett Affidavit, the affidavit of Greg Nordal sworn May 11, 2015 (the "**Nordal Affidavit**"), the Pre-Filing Report of Alvarez & Marsal Canada Inc. in its capacity as the Court-appointed monitor of the Applicants (the "**Monitor**") dated May 11, 2015, and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING], Applicants, counsel for the Monitor, counsel for the First Lien Steering Committee and the First Lien Agent (each as defined in the Mullett Affidavit), and counsel for the Second Lien Agent (as defined in the Mullett Affidavit), and no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME]● sworn [DATE]●, 2015, filed<sup>1</sup>:

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS that, unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Mullett Affidavit or in the Sale Agreement, as applicable.

3. ~~4.~~ THIS COURT ORDERS AND DECLARES that the Transaction is and all associated steps, transactions, and releases effected thereby are hereby approved,<sup>2</sup> and the execution of the

<sup>1</sup> This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

<sup>2</sup> In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

Sale Agreement by the ~~Receiver~~<sup>3</sup>Seller is hereby authorized and approved, *nunc pro tunc*, with such minor amendments as the ~~Receiver~~Seller and the Purchaser may deem necessary. The ~~Receiver~~Seller is hereby authorized and directed to complete the Transaction, subject to the terms of the Sale Agreement, and to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser and/or one or more entities nominated by the Purchaser to take title to the Purchased Assets in accordance with the Sale Agreement (each a “Purchaser Nominee”).

4. THIS COURT ORDERS that the Seller shall deliver to the Purchaser any funds remaining in the Cash Reserve on the terms set out in the Sale Agreement.

5. THIS COURT ORDERS that the Applicants, the Monitor, the Purchaser, the First Lien Agent, the Supplemental Agent (as defined in the Nordal Affidavit) and any other Person required to make any distributions or deliveries or take any steps or actions related to the Transaction are hereby authorized and directed to complete such distributions or deliveries and to take any such steps or actions, as the case may be, in accordance with the terms of the Sale Agreement, and such distributions, deliveries, steps and actions are hereby approved. No such Person shall incur any liability with respect to such distributions, deliveries, steps and actions, save and except for any gross negligence or wilful misconduct on its part.

6. 2.—THIS COURT ORDERS AND DECLARES that upon the delivery of a ~~Receiver~~Monitor's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "~~Receiver~~“Monitor’s Certificate”"); all of the ~~Debtor~~Seller's right, title and interest in and to the Purchased Assets described in the Sale Agreement [~~and listed on Schedule B hereto~~]<sup>4</sup> shall vest absolutely in the Purchaser and/or one or more Purchaser Nominees, free and clear of and from any and all right, title, interest, priorities, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual,

<sup>3</sup> ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

<sup>4</sup> ~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

statutory, or otherwise), liens, executions, assignments, judgments, options, levies, charges, or other financial or monetary claims (including claims provable in bankruptcy should one or more of the Applicants be adjudged bankrupt) or encumbrances, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "~~Claims~~"<sup>5</sup> "**Claims**") by or of any and all persons or entities of any kind whatsoever including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Mr. Justice [NAME] dated [DATE]; (ii) ~~all charges, security interests or claims~~ Newbould dated May 12, 2015, as may be amended and/or restated from time to time; (ii) all Claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto (all of which, including Claims, are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

7. ~~3.~~ THIS COURT ORDERS that upon the registration in the Land Registry Office for the ~~[Registry Division of {LOCATION} of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION} of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]~~<sup>6</sup> Land Titles Division of Toronto (No. 80) of an Application for Vesting Order in the form prescribed by the Land Titles Act (Ontario) and/or the Land Registration Reform Act (Ontario), the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "**Real Property**") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

<sup>5</sup> The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

<sup>6</sup> ~~Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~



8. ~~4.~~ THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale<sup>8</sup>; as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. the Monitor may rely on written notice from the Seller and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Certificate, save and except for any gross negligence or wilful misconduct on its part.

9. ~~5.~~ THIS COURT ORDERS AND DIRECTS the ~~Receiver~~ Monitor to file with the Court a copy of the ~~Receiver~~ Monitor's Certificate, forthwith after delivery thereof.

10. THIS COURT ORDERS that the Stockholders and Registration Rights Agreement (as defined in the Nordal Affidavit) shall be effective and binding on all holders of the common shares of Purchaser Holdco and any Persons entitled to receive common shares of Purchaser Holdco in connection with the Transaction immediately upon issuance of the common shares of Purchaser Holdco to such Persons, with the same force and effect as if such Persons were signatories to the Stockholders and Registration Rights Agreement.

11. THIS COURT ORDERS that, provided that the Sale Agreement has not been terminated, any plan of compromise or arrangement that may be filed by the Applicants shall not derogate or otherwise affect any right or obligation of the Seller or the Purchaser under the Sale Agreement unless otherwise agreed by the Seller and the Purchaser.

12. ~~6.~~ THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the ~~Receiver~~ Seller is authorized and permitted to disclose and transfer to the Purchaser and/or one or more Purchaser Nominees all

<sup>7</sup> ~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

<sup>8</sup> ~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

human resources and payroll information (including personal information) in the ~~Company~~Seller's records pertaining to the ~~Debtor~~Seller's past and current employees, ~~including personal information of those employees listed on Schedule "•" to the Sale Agreement.~~ The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the ~~Debtor~~Seller.

13. ~~7-~~THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of one or more of the ~~Debtor~~Applicants and any bankruptcy order issued pursuant to any such applications; ~~and~~
- (c) any assignment in bankruptcy made in respect of one or more of the ~~Debtor~~Applicants; ~~and~~
- (d) the provisions of any federal or provincial statute,

the entering into of the Sale Agreement and the vesting of the Purchased Assets in the Purchaser and/or one or more Purchaser Nominees pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the ~~Debtor~~Applicants and shall not be void or voidable by creditors or claimants of the ~~Debtor~~Applicants, nor shall ~~it~~they constitute nor be deemed to be ~~a~~settlements, fraudulent preference, assignment preferences, assignments, fraudulent conveyance, transfer conveyances, transfers at undervalue, or other reviewable ~~transaction~~transactions under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall ~~it~~they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

14. 8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

15. THIS COURT ORDERS that: (i) on or after the Closing Date, the Applicants are hereby permitted to execute and file articles of amendment or such other documents or instruments as may be required to change their respective legal names in accordance with section 5.5(b) of the Sale Agreement, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective and shall be accepted by the applicable Governmental Authority without the requirement (if any) of obtaining director or shareholder approval pursuant to any federal or provincial legislation; and (ii) upon the official change to the legal names of the Applicants that is to occur as soon as reasonably practicable after the Closing Date in accordance with 5.5(b) of the Sale Agreement, the names of the Applicants in the within title of proceedings shall be deleted and replaced with the new legal names of the Applicants, and any document filed thereafter in these proceedings (other than the Monitor's Certificate) shall be filed using such revised title of proceedings.

16. THIS COURT ORDERS that, upon the delivery of the Monitor's Certificate to the Purchaser, each of Nelson, Holdings, the Purchaser, their respective Affiliates, the First Lien Agent, the Supplemental Agent, the First Lien Lenders, and each of the foregoing's respective present and former direct and indirect shareholders, officers, directors, employees, auditors, advisors (including, without limitation, financial advisors), legal counsel and agents (collectively, the "**Released Parties**") are hereby forever released and discharged from any and all present and future demands, claims, liabilities, actions, causes of action, counterclaims, suits, damages, judgments, executions, debts, sums of money, accounts, indebtedness, liens and obligations of whatever nature (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or not yet due) of another Released Party based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place prior to the Closing Date in connection with Nelson, Nelson's business, the Sale Agreement, the Transaction, these proceedings, the Support Agreement, the Supplemental Support Agreement (as defined in the Nordal Affidavit), the Payment and Settlement Agreement, the First Lien Credit Agreement and the other Loan Documents (as defined in the First Lien Credit Agreement) (provided that such release, solely with respect to the First Lien Credit Agreement, the related security documents and any document ancillary thereto, will be effective immediately following

the Settlement Time (as defined in the Payment and Settlement Agreement)) or the transactions contemplated by the foregoing; provided, however, that (i) the Released Parties shall not include Cengage Learning Inc. or any of its Affiliates, other than any Affiliates of Cengage Learning Inc. that are also present or former direct or indirect shareholders of Nelson which shall each be Released Parties, (ii) the Released Parties shall not be released from or in respect of their respective obligations under the Sale Agreement, the Support Agreement, the Supplemental Support Agreement, the Newco First Lien Credit Agreement, the Payment and Settlement Agreement, the Indemnification Agreements or any document ancillary to any of the foregoing, (iii) in no event shall the release set forth herein apply to any claims, losses, suits, demands, actions, causes of action, rights, costs, fees, expenses, judgments, damages, obligations, lawsuits and liabilities to the extent such claims, losses, suits, demands, actions, causes of action, rights, costs, fees, expenses, judgments, damages, obligations, lawsuits and liabilities are a result of any fraud, as adjudged by the express terms of a judgment rendered on a final non-appealable determination on the merits by a court of competent jurisdiction, and (iv) all obligations of Nelson and the other Loan Parties (as defined in the First Lien Credit Agreement) under the First Lien Credit Agreement and the other Loan Documents (as defined in the First Lien Credit Agreement) which by their terms expressly survive termination of the First Lien Credit Agreement and the other Loan Documents (as defined in the First Lien Credit Agreement) or payment of the Obligations (as defined in the First Lien Credit Agreement) shall not be deemed released or discharged, including, without limitation, all obligations pursuant to Section 10.05 of the First Lien Credit Agreement. Notwithstanding anything contained in the foregoing, no Affiliate of Cengage Learning Inc. shall be released from any claims, losses, suits, demands, actions, causes of action, rights, costs, fees, expenses, judgments, damages, obligations, lawsuits or liabilities based in whole or in part on any steps or actions taken or omissions in its capacity as a direct or indirect shareholder of Cengage Learning Inc. in respect of any matters relating to any contractual arrangements between the Seller and Cengage Learning Inc.

17. ~~9.~~ 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 ~~Receiver~~ Applicant, the Monitor and ~~its~~ 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

~~Receiver~~Applicants and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver and its~~Applicants, the Monitor and their respective agents in carrying out the terms of this Order.

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Revised: January 21, 2014

**Schedule A – Form of ~~Receiver~~Monitor’s Certificate**

Court File No. \_\_\_\_\_

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**

BETWEEN:

**PLAINTIFF**

Plaintiff

–and–

**DEFENDANT**

Defendant

**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**RECEIVERMONITOR’S CERTIFICATE****RECITALS**

A. Pursuant to an Order of the Honourable [~~NAME OF JUDGE~~]Mr. Justice Newbould of the Ontario Superior Court of Justice (the “Court”) dated [~~DATE OF ORDER~~], [~~NAME OF RECEIVER~~]May 12, 2015, Alvarez & Marsal Canada Inc. was appointed as the receiver (the “Receiver”) of the undertaking, property and assets of [~~DEBTOR~~] (the “Debtor”) monitor (the “Monitor”) of the Applicants.

B. Pursuant to an Order of the Court dated [DATE], 2015 (the “**Approval and Vesting Order**”), the Court approved the ~~agreement of~~ Transaction contemplated by the asset purchase and sale agreement made as of [DATE OF AGREEMENT], 2015 (the “**Sale Agreement**”) between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~ (the “”) between Nelson Education Ltd. (the “**Seller**”) and 682534 N.B. Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser and/or one or more Purchaser Nominees of all of the ~~Debtor~~ Seller’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Receiver Seller and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of the Receiver Monitor.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement or the Approval and Vesting Order.

THE RECEIVER MONITOR CERTIFIES the following:

1. The ~~Purchaser has paid and the Receiver~~ Seller has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Receiver Seller and the Purchaser, as applicable; and
3. The Transaction has been completed to the satisfaction of the Receiver Monitor.
4. This Certificate was delivered by the Receiver Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

- 2 -

~~{NAME OF RECEIVER}~~ Alvarez & Marsal  
Canada Inc., in its capacity as  
Receiver Monitor of the ~~undertaking, property  
and assets of~~ ~~{DEBTOR}~~ Applicants, and not  
in its personal capacity

Per: \_\_\_\_\_

Name:

Title:



**Schedule B – ~~Purchased Assets~~Real Property**

**PIN 06336-0087(LT)**

Part of Lot 16, Plan 4087, designated as Part 1 on Plan 64R-1540, save and except Part 1 on Plan 66R-22294, City of Toronto (formerly City of Scarborough)

**Schedule C – Claims to be deleted and expunged from title to Real Property**

1. Charge from Nelson Education Ltd. in favour of Royal Bank of Canada registered as Instrument No. AT1532304 on August 7, 2007;
2. Charge from Nelson Education Ltd. in favour of Royal Bank of Canada registered as Instrument No. AT1532305 on August 7, 2007; and
3. Transfer of Charge No. AT1532304 from Royal Bank of Canada to Wilmington Trust, National Association registered as Instrument No. AT3944542 on January 9, 2014.

**Schedule D – Permitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property**

**(unaffected by the Vesting Order)**

1. Site Plan Control Agreement in favour of the City of Scarborough registered as Instrument No. TB501932 on May 6, 1988;
2. Amending Site Plan Control Agreement in favour of the City of Scarborough registered as Instrument No. TB536238 on August 31, 1988; and
3. Site Plan Agreement registered as Instrument No. AT1094368 on March 24, 2006.

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

Court File No: CV15-10961-00CL

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

**APPROVAL AND VESTING ORDER**

**GOODMANS LLP**

Barristers & Solicitors

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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: CV15-10961-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF NELSON EDUCATION LTD. AND NELSON EDUCATION HOLDINGS LTD.**

Applicants

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE-**  
**COMMERCIAL LIST**

Proceeding commenced at Toronto

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**MOTION RECORD**  
**(returnable on a date to be set by the Court)**

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**GOODMANS LLP**  
Barristers & Solicitors  
333 Bay Street, Suite 3400  
Toronto, Canada M5H 2S7

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