

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM300588

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	Bankruptcy Court Order releasing all liens, including the security interest recorded at Reel/Frame 4911/0100		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
The Bank of New York Mellon		03/14/2014	Banking Corporation: NEW YORK
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Cengage Learning Acquisitions, Inc.		
<b>Street Address:</b>	200 First Stamford Place		
<b>City:</b>	Stamford		
<b>State/Country:</b>	CONNECTICUT		
<b>Postal Code:</b>	06902		
<b>Entity Type:</b>	CORPORATION: DELAWARE		
<b>Name:</b>	Cengage Learning Holdings II LP		
<b>Street Address:</b>	200 First Stamford Place		
<b>City:</b>	Stamford		
<b>State/Country:</b>	CONNECTICUT		
<b>Postal Code:</b>	06902		
<b>Entity Type:</b>	LIMITED PARTNERSHIP: DELAWARE		
<b>Name:</b>	Cengage Learning Holdco, Inc.		
<b>Street Address:</b>	200 First Stamford Place		
<b>City:</b>	Stamford		
<b>State/Country:</b>	CONNECTICUT		
<b>Postal Code:</b>	06902		
<b>Entity Type:</b>	CORPORATION: DELAWARE		
<b>Name:</b>	Gale Holdings I, Inc.		
<b>Street Address:</b>	200 First Stamford Place		
<b>City:</b>	Stamford		
<b>State/Country:</b>	CONNECTICUT		
<b>Postal Code:</b>	06902		
<b>Entity Type:</b>	CORPORATION: DELAWARE		
<b>Name:</b>	Cengage Learning, Inc.		
<b>Street Address:</b>	200 First Stamford Place		
<b>City:</b>	Stamford		
<b>TRADEMARK</b>			

<b>State/Country:</b>	CONNECTICUT
<b>Postal Code:</b>	06902
<b>Entity Type:</b>	CORPORATION: DELAWARE
<b>Name:</b>	The Gale Group, Inc.
<b>Street Address:</b>	200 First Stamford Place
<b>City:</b>	Stamford
<b>State/Country:</b>	CONNECTICUT
<b>Postal Code:</b>	06902
<b>Entity Type:</b>	CORPORATION: DELAWARE

**PROPERTY NUMBERS Total: 191**

<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>
<b>Registration Number:</b>	0913702	CENTURY 21
<b>Registration Number:</b>	0913703	C21
<b>Registration Number:</b>	1021485	OPPOSING VIEWPOINTS SERIES
<b>Registration Number:</b>	1160892	CHARLES SCRIBNER'S SONS
<b>Registration Number:</b>	1212411	
<b>Registration Number:</b>	1241661	VIDEO SOURCE BOOK
<b>Registration Number:</b>	1296041	ENCYCLOPEDIA OF ASSOCIATIONS
<b>Registration Number:</b>	1299481	CONTEMPORARY AUTHORS
<b>Registration Number:</b>	1304988	OPPOSING VIEWPOINTS
<b>Registration Number:</b>	1333193	GALE
<b>Registration Number:</b>	1463471	NATIONAL FACULTY DIRECTORY
<b>Registration Number:</b>	1479176	AEROSPACE/DEFENSE MARKETS & TECHNOLOGY
<b>Registration Number:</b>	1483958	MARKETING AND ADVERTISING REFERENCE SERV
<b>Registration Number:</b>	1557680	INFOTRAC
<b>Registration Number:</b>	1613379	THE ENCYCLOPEDIA OF AMERICAN RELIGIONS
<b>Registration Number:</b>	1616686	NINETEENTH-CENTURY LITERATURE CRITICISM
<b>Registration Number:</b>	1617577	TWENTIETH-CENTURY LITERARY CRITICISM
<b>Registration Number:</b>	1619802	DICTIONARY OF LITERARY BIOGRAPHY
<b>Registration Number:</b>	1582529	SOMETHING ABOUT THE AUTHOR
<b>Registration Number:</b>	1596358	FOUNDATION GIVING WATCH
<b>Registration Number:</b>	1585628	LUCENT B-O-O-K-S
<b>Registration Number:</b>	1592970	TAFT
<b>Registration Number:</b>	1725504	THORNDIKE PRESS
<b>Registration Number:</b>	1709939	THORNDIKE LARGE PRINT
<b>Registration Number:</b>	1616724	ST. JAMES PRESS
<b>Registration Number:</b>	1616725	ST. J
<b>Registration Number:</b>	1713122	ONWORD PRESS
<b>Registration Number:</b>	1660331	COURSE TECHNOLOGY

**TRADEMARK**

Property Type	Number	Word Mark
Registration Number:	1628825	WHO'S WEALTHY IN AMERICA
Registration Number:	1709332	SHELLY CASHMAN SERIES
Registration Number:	1732971	SHELLY CASHMAN SERIES
Registration Number:	1750118	NEWBURY HOUSE
Registration Number:	1793467	POEM FINDER
Registration Number:	1808393	DISCOVERING AUTHORS
Registration Number:	1798332	PROMT
Registration Number:	1866136	ITP
Registration Number:	2091574	COMMUNICATION 2000
Registration Number:	1960086	INFORMATION PLUS
Registration Number:	2067640	B & I
Registration Number:	1961205	BUSINESS & INDUSTRY
Registration Number:	2036544	DUXBURY PRESS
Registration Number:	2110260	DISCOVERING
Registration Number:	2060454	BIBLIOBASE
Registration Number:	2020570	GLOBALBASE
Registration Number:	2080116	KEYTAB
Registration Number:	2075263	GOLDEN MOVIE RETRIEVER
Registration Number:	2143661	CONTEMPORARY WOMEN'S ISSUES
Registration Number:	2204267	CWI
Registration Number:	2119079	BAKER'S BIOGRAPHICAL DICTIONARY OF MUSIC
Registration Number:	2063454	BIBLIOBASE
Registration Number:	2124518	ILLUSTRATED PROJECTS
Registration Number:	2435466	JOURNEY THROUGH
Registration Number:	2333910	INFORME
Registration Number:	2137066	CASENET
Registration Number:	2134666	SCRIBNER
Registration Number:	2487844	A MULTIMEDIA INTRODUCTION TO PSYCHOLOGY
Registration Number:	2447156	BASIC COUNSELING RESPONSES
Registration Number:	2435562	RDS BUSINESS REFERENCE SUITE
Registration Number:	2245895	DATA ANALYSIS PLUS
Registration Number:	2267215	EDUSPACE
Registration Number:	2331169	SNIFFY THE VIRTUAL RAT
Registration Number:	2951902	GALE GROUP
Registration Number:	2840469	INFOTRAC INFOMARKS
Registration Number:	2721657	WEBTUTOR
Registration Number:	2397640	GREENHAVEN PRESS
Registration Number:	2474615	COURSEPREP
Registration Number:	2559631	CHILTON

**TRADEMARK**

Property Type	Number	Word Mark
Registration Number:	2605298	CHILTON'S
Registration Number:	2585983	CHILTON
Registration Number:	2817702	MY BACKPACK
Registration Number:	3038647	QUESTIA
Registration Number:	2489247	TEXERE
Registration Number:	2948257	ATOMIC DOG PUBLISHING
Registration Number:	2437046	INFOMARK
Registration Number:	2643749	TOOLS FOR ENRICHING
Registration Number:	2555100	
Registration Number:	2555101	JAMSA
Registration Number:	2884582	ILRN
Registration Number:	3151184	TOTAL CAR CARE
Registration Number:	2648206	TOTAL CAR CARE
Registration Number:	2587633	TOTAL CAR CARE
Registration Number:	2606835	EXPANDED ACADEMIC ASAP
Registration Number:	2584738	ACADEMIC ASAP
Registration Number:	2587658	GENERAL REFERENCE CENTER GOLD
Registration Number:	2619957	CITIES OF THE UNITED STATES
Registration Number:	2645476	SKILLS @ WORK
Registration Number:	2913503	TYPING TIME
Registration Number:	2665920	POWERSTUDY
Registration Number:	3036150	FAST STAT
Registration Number:	2685987	WEB FEET
Registration Number:	2805534	EXTEND YOUR REACH
Registration Number:	2757302	ED2GO
Registration Number:	2832855	TECHONE
Registration Number:	2977087	SMARTLINK
Registration Number:	3015903	PROTEUS
Registration Number:	2866157	COGLAB
Registration Number:	3029726	COURSEFORWARD
Registration Number:	3042215	GALE VIRTUAL REFERENCE LIBRARY
Registration Number:	2949173	SAM CHALLENGE
Registration Number:	4372715	WADSWORTH INSITE
Registration Number:	3043253	APLIA
Registration Number:	2984524	PRIMARY SOURCE MICROFILM
Registration Number:	2939230	MY ASTRONOMY COURSE
Registration Number:	2991177	GRAMMAR IN CONTEXT
Registration Number:	2941341	KIDHAVEN PRESS
Registration Number:	2999906	

**TRADEMARK**

Property Type	Number	Word Mark
Registration Number:	3024188	HISTORYNOW!
Registration Number:	2974794	STUDYWARE
Registration Number:	3042305	GOLIATH
Registration Number:	3031220	
Registration Number:	3325186	JOININ
Registration Number:	3230228	STUDYWARE
Registration Number:	3022696	ATAJO
Registration Number:	3108475	KNOW IT? SHOW IT.
Registration Number:	3315422	WRITESPACE
Registration Number:	3712372	TOTAL PRACTICE ZONE
Registration Number:	3576793	GO! CHEMISTRY
Registration Number:	3503600	WISETO
Registration Number:	3503601	ACCESS MY LIBRARY
Registration Number:	3653038	CORNERSTONES
Registration Number:	3417275	CONCEPT MEDIA
Registration Number:	3603349	CENGAGE
Registration Number:	3603376	CENGAGE LEARNING
Registration Number:	3790579	
Registration Number:	3394746	TRUEOUTCOMES
Registration Number:	3510831	ICHAPTERS.COM
Registration Number:	3426230	WHERE THE WORLD COMES TO LEARN!
Registration Number:	3740436	CENGAGENOW
Registration Number:	3767984	HYBRIDTEXT
Registration Number:	3641797	SIGNATURE LABS
Registration Number:	3772275	INFORMATION DESTINATION
Registration Number:	3729269	CENGAGE TEACH BUSINESS
Registration Number:	3645984	MILADY
Registration Number:	3645987	MILADY
Registration Number:	3848323	PAL
Registration Number:	4150411	BIOEXPERIENCE
Registration Number:	4254245	THE GREEN DESTINATION
Registration Number:	4142984	THE GREEN DESTINATION: ESSENTIAL INFORMA
Registration Number:	3938456	THE TRUSTED SOURCE FOR POWERFUL KNOWLEDG
Registration Number:	4198816	INNOVATION QUALITY SUSTAINABILITY WWW.TH
Registration Number:	4257956	CENGAGE LEARNING'S THE WRITE EXPERIENCE
Registration Number:	3855177	COURSE NOTES QUICK REFERENCE GUIDE
Registration Number:	4226093	THE GREEN DESTINATION: ESSENTIAL INFORMA
Registration Number:	2713595	CHILTON
Registration Number:	2802419	QUESTIA

**TRADEMARK**

Property Type	Number	Word Mark
Registration Number:	2802420	QUESTIA
Registration Number:	2908604	H
Registration Number:	3846609	HIGHBEAM
Registration Number:	2997503	PAL PUBLICATIONS
Registration Number:	3080974	COACHING CLUB
Registration Number:	3386242	BROOKS/COLE
Registration Number:	3493849	SOUTH-WESTERN
Registration Number:	3395789	CRIMINOLOGYNOW
Registration Number:	3395790	SOCIOLOGYNOW
Registration Number:	3395791	PSYCHOLOGYNOW
Registration Number:	3395792	STATISTICSNOW
Registration Number:	3395795	MATHNOW
Registration Number:	3045881	COURSEPORT
Registration Number:	3111373	FUNNY YOU SHOULD ASK. . .
Registration Number:	3050620	EDUCATIONTOGO
Registration Number:	3363231	NETCOMPETENCY
Registration Number:	3085163	TODAY'S TECHNICIAN
Registration Number:	3191767	AUTOMATED ACCOUNTING
Registration Number:	3269803	KNOWLEDGE ON DEMAND
Registration Number:	3269851	WHERE SMART TECHNICIANS CLICK FOR SERVIC
Registration Number:	3196131	WHERE SMART ENTHUSIASTS CLICK FOR SERVIC
Registration Number:	3216645	NETAUTHOR
Registration Number:	3246429	NETNOTES
Registration Number:	3246432	NETLEARNING
Registration Number:	3300332	NETMANAGER
Registration Number:	3243876	NETEXPRESS
Registration Number:	3221877	UXL
Registration Number:	3216646	NETREVIEW
Registration Number:	3221970	SYSTEME-D
Registration Number:	3205928	HEINLE & HEINLE
Registration Number:	3455558	ECONOMIC LEARNINGPATH
Registration Number:	3324563	LIT 21
Registration Number:	3281165	LITERATURE IN THE 21ST CENTURY
Registration Number:	3324570	POETRY 21
Registration Number:	3281166	POETRY IN THE 21ST CENTURY
Registration Number:	3324574	COMP 21
Registration Number:	3281167	COMPOSITION IN THE 21ST CENTURY
Registration Number:	3244992	SAM 2003 PROGRADER
Registration Number:	3362524	TABLEBASE

**TRADEMARK**

Property Type	Number	Word Mark
Registration Number:	4147619	GALE NEWSVAULT
Registration Number:	4218714	GALE BUSINESS INSIGHTS
Registration Number:	4209533	MINDLINKS
Serial Number:	77766417	COURSE360
Serial Number:	85225668	MINDTAP
Serial Number:	85228137	TOP STORIES _ _ _ _ : BEHIND THE HEADLINE
Serial Number:	85448075	ELTEACH

**CORRESPONDENCE DATA**

**Fax Number:** 3128622200  
**Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.**  
**Phone:** 312-862-6371  
**Email:** renee.prescan@kirkland.com  
**Correspondent Name:** Renee Prescan  
**Address Line 1:** 300 North LaSalle Street  
**Address Line 2:** Kirkland & Ellis LLP  
**Address Line 4:** Chicago, ILLINOIS 60654

<b>ATTORNEY DOCKET NUMBER:</b>	15222-22 RMP-CHECK
<b>NAME OF SUBMITTER:</b>	Renee M. Prescan
<b>SIGNATURE:</b>	/Renee M. Prescan/
<b>DATE SIGNED:</b>	04/07/2014

**Total Attachments: 71**

- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page1.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page2.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page3.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page4.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page5.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page6.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page7.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page8.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page9.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page10.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page11.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page12.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page13.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page14.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page15.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page16.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page17.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page18.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page19.tif
- source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page20.tif





source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page69.tif  
source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page70.tif  
source=Cengage 1225 Bankruptcy Confirmation Order\_Exhibits Redacted#page71.tif

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK**

---

In re:	)	
	)	Chapter 11
	)	
CENGAGE LEARNING, INC., <i>et al.</i> ,	)	Case No. 13-44106 (ESS)
	)	Case No. 13-44105 (ESS)
	)	Case No. 13-44107 (ESS)
	)	Case No. 13-44108 (ESS)
	)	
Debtors.	)	(Jointly Administered)

---

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER  
CONFIRMING THE DEBTORS' AMENDED JOINT PLAN OF  
REORGANIZATION PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

---

The above-captioned debtors and debtors in possession (collectively, the “*Debtors*”),  
having:<sup>1</sup>

- a. commenced the above-captioned chapter 11 cases (the “*Chapter 11 Cases*”) by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “*Bankruptcy Code*”) on July 2, 2013 (the “*Petition Date*”);
- b. continued to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;
- c. filed, on August 17, 2013, (i) the *Debtors’ Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 295], which plan and related documents were subsequently amended, (ii) the *Disclosure Statement for the Debtors’ Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 296], and (iii) the *Debtors’ Motion for the Entry of an Order (A) Approving the Disclosure Statement; (B) Approving Solicitation Packages and Procedures for the Distribution Thereof; (C) Approving the Forms of Ballots and Manner of Notice; (D) Approving the Voting Record Date, Solicitation Deadline and Voting Deadline; and (E) Establishing Notice and Objection Procedures for Confirmation of the Plan* [Docket No. 297], which disclosure statement and related documents were subsequently amended and supplemented, including by the *Disclosure Statement for Debtors’ Joint Plan of Reorganization*

---

<sup>1</sup> Unless otherwise noted, capitalized terms not defined in this *Findings of Fact, Conclusions of Law, and Order Confirming Debtors’ Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* (this “*Confirmation Order*”), shall have the meanings ascribed to them in the Plan (as defined herein). The rules of interpretation set forth in Article I.B of the Plan shall apply to this Confirmation Order.

*Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 782] (the “**Original Disclosure Statement**”);*

- d. filed, on December 27, 2013, the *Debtors’ Motion for Entry of an Order Authorizing the Debtors to (A) Enter into Exit Financing Related Fee Letters, (B) Incur and Pay Associated Fees and Expenses, and (C) File the Exit Financing Letters Under Seal [Docket No. 909];*
- e. filed, on February 7, 2014, (i) the *Debtors’ Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 1070];* (ii) the *Supplemental Disclosure Statement Related to the Debtors’ Amended Joint Plan of Reorganized Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 1072];* and (iii) the *Debtors’ Motion for Entry of an Order (I) Approving the Debtors’ and the Committee’s Entry Into a Plan Support Agreement; (II) Approving the Disclosure Statement Supplement; (III) Authorizing Expedited Supplement Solicitation Procedures and the Modification of Deadlines Related Thereto; and (IV) Approving the Forms of the New Solicitation Materials [Docket No. 1073] (the “**Disclosure Statement Motion**”);*
- f. filed, on February 12, 2014, the (i) *Debtors’ Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 1098]* (as may be supplemented, amended, or modified from time to time prior to the Effective Date in accordance with the terms set forth therein and herein, the “**Plan**”)<sup>2</sup> and (ii) the *Supplemental Disclosure Statement Related to the Debtors’ Amended Joint Plan of Reorganized Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 1099]* (the “**Disclosure Statement Supplement**,” and together with the Original Disclosure Statement, the “**Disclosure Statement**”);
- g. caused revised solicitation materials and notice of the deadline for objecting to confirmation of the Plan to be distributed beginning on or about February 13, 2014, and continuing thereafter, consistent with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and the Disclosure Statement Order (as defined herein), which Disclosure Statement Order also approved, among other things, solicitation procedures (the “**Solicitation Procedures**”) the Distribution Election Procedures and related notices, forms, Ballots, and Master Ballots (collectively, the “**Solicitation Packages**”), as evidenced by, among other things, the *Affidavit of Donlin, Recano and Company, Inc. Regarding Service of Solicitation Packages with Respect to Supplemental Disclosure Statement Related to Debtors’ Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code [Docket No. 1140];*
- h. caused notice of the Confirmation Hearing (the “**Confirmation Hearing Notice**”) to be published on February 13, 2014, in the *New York Times* as evidenced by the *Certification of Publication of Confirmation Notice in the New York Times of Maria Pannullo [Docket No. 1107];*

---

<sup>2</sup> Attached as **Exhibit 1** is the Plan as supplemented, amended, and modified as of the date hereof.

- i. caused the *Notice of Filing of Debtors' Distribution Election Procedures and Distribution Election Forms* (the “**Distribution Election Procedures**”) [Docket No. 1119] to be distributed beginning on or about February 21, 2014;
- j. filed, on February 24, 2014, the *Notice of Filing of Plan Supplement for the Debtors' Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket Nos. 1128, 1129, 1130] (as the same may have been subsequently modified, supplemented, or otherwise amended from time to time, the “**Plan Supplement**”), and with amendments to exhibits to the Plan Supplement filed thereafter [Docket Nos. 1170, 1176, 1190];
- k. filed, on March 5, 2014 the *Debtors' Motion for Entry of an Order Pursuant to Federal Rule of Bankruptcy Procedure 9019 Approving the Global Settlement Among the Debtors and the Supporting Parties* [Docket No. 1156] (the “**Global Settlement Motion**”);<sup>3</sup>
- l. filed, on March 12, 2014, the *Declaration of Jung W. Song on Behalf of Donlin, Recano & Company, Inc. Regarding Voting and Tabulation of Ballots Accepting and Rejecting the Debtors' Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 1203] (as may be amended, modified, or supplemented, the “**Voting Certification**”);
- m. filed, on March 12, 2014, the *Debtors' (I) Memorandum of Law In Support of Confirmation of the Debtors' Amended Joint Plan Pursuant to Chapter 11 of the Bankruptcy Code and (II) Omnibus Reply to Objections Thereto* [Docket No. 1207] (the “**Confirmation Brief**”);
- n. filed, on March 12, 2014, the *Debtors' Reply to the Objection of the United States Trustee to Debtors' Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code and in Support of the Management Incentive Plan, the New Employment Agreements* [Docket No. 1209] (the “**Reply Brief**”);
- o. filed, on March 12, 2014, the *Declaration of Richard D. Feintuch, Independent Director of Cengage Learning, Inc., in Support of Confirmation of the Debtors' Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 1204] (the “**Feintuch Declaration**”);
- p. filed, on March 12, 2014, the *Declaration of William C. Kosturos, Managing Director of Alvarez & Marsal North America, LLC, in Support of Confirmation of the Debtors' Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 1205] (the “**Kosturos Declaration**,” and, together with the Feintuch Declaration, the “**Confirmation Declarations**”); and

---

<sup>3</sup> “**Global Settlement**” shall have the meaning ascribed to it in the Global Settlement Motion.

- q. served and will file the *Debtors' Amended Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* with certain immaterial modifications to the version of the Plan filed on February 12, 2014.

This Court having:

- a. entered the (i) *Order (A) Approving the Disclosure Statement; (B) Approving Solicitation Packages and Procedures for the Distribution Thereof; (C) Approving the Forms of Ballots and Manner of Notice; (D) Approving the Voting Record Date, Solicitation Deadline and Voting Deadline; and (E) Establishing Notice and Objection Procedures for Confirmation of the Plan* [Docket No. 778] (the “**Original Disclosure Statement Order**”) on November 25, 2013 and the (ii) *Order (I) Approving the Debtors' and Committee's Entry Into a Plan Support Agreement; (II) Approving the Disclosure Statement Supplement; (III) Authorizing Expedited Supplemental Solicitation Procedures and the Modification of Deadlines Related Thereto; and (IV) Approving the Forms of the New Solicitation Materials* [Docket No. 1094] (the “**Supplemental Disclosure Statement Order**,” and together with the Original Disclosure Statement Order, the “**Disclosure Statement Order**”) on February 12, 2014;
- b. entered the *Order Authorizing the Debtors to (A) Enter into Engagement Letters to Obtain Exit Financing and Related Fee Letters, (B) Incur and Pay Associated Fees and Expenses, and (C) File the Exit Financing Letters Under Seal* [Docket No. 1051] (the “**Exit Financing Order**”);
- c. set March 10, 2014, at 4:00 p.m. prevailing Eastern Time, as the deadline for voting on the Plan and the deadline for filing objections in opposition to the Plan (the “**Plan Objection Deadline**”);
- d. set March 13, 2014, at 8:30 a.m. prevailing Eastern Time, as the date and time for the Confirmation Hearing pursuant to Bankruptcy Rules 3017 and 3018 and sections 1126, 1128, and 1129 of the Bankruptcy Code;
- e. reviewed the Plan, the Disclosure Statement, the Global Settlement Motion, the Confirmation Brief, the Reply Brief, the Confirmation Declarations, the Voting Certification, and all pleadings, exhibits, statements, responses, and comments regarding Confirmation, including all objections, statements, and reservations of rights filed by parties in interest on the docket of the Chapter 11 Cases;
- f. held the Confirmation Hearing;
- g. heard the statements, arguments, and objections made by counsel in respect of Confirmation;
- h. considered all oral representations, testimony, documents, filings, and other evidence regarding Confirmation;

- i. taken judicial notice of all pleadings and other documents filed, all orders entered, and all evidence and arguments presented in the Chapter 11 Cases; and
- j. overruled any and all objections to the Plan and to Confirmation and all statements and reservations of rights not consensually resolved or withdrawn unless otherwise indicated herein.

NOW, THEREFORE, the Court having found that notice of the Confirmation Hearing and the opportunity for any party in interest to object to Confirmation have been adequate and appropriate as to all parties affected or to be affected by the Plan and the transactions contemplated thereby, and the legal and factual bases set forth in the documents filed in support of Confirmation and all evidence proffered or adduced by counsel at the Confirmation Hearing and the entire record of these Chapter 11 Cases establish just cause for the relief granted herein; and after due deliberation thereon and good cause appearing therefor, the Court hereby makes and issues the following Findings of Fact and Conclusions of Law and Orders:

**I. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

IT IS HEREBY DETERMINED, FOUND, ADJUDGED, DECREED, AND ORDERED THAT:

**A. Findings and Conclusions.**

1. The findings and conclusions set forth herein and in the record of the Confirmation Hearing constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

**B. Jurisdiction, Venue, Core Proceeding (28 U.S.C. §§ 157(b)(2) and 1334(a)).**

2. The Court has jurisdiction over the Chapter 11 Cases pursuant to 28 U.S.C. § 1334. Confirmation of the Plan is a core proceeding pursuant to 28 U.S.C. § 157(b),

and the Court has jurisdiction to enter a Final Order determining that the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed. Venue is proper before the Court pursuant to 28 U.S.C. § 1408.

**C. Eligibility for Relief.**

3. The Debtors are entities eligible for relief under section 109 of the Bankruptcy Code.

**D. Commencement of the Chapter 11 Cases.**

4. On the Petition Date, each of the Debtors commenced a chapter 11 case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code. By prior order of the Court, the Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015 [Docket No. 31]. The Debtors have operated their businesses and managed their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Chapter 11 Cases.

**E. Notice and Transmittal of Solicitation Materials; Adequacy of Solicitation Notices.**

5. The Plan, the Disclosure Statement, the Disclosure Statement Order, the ballots for voting on the Plan (the “*Ballots*”), the Confirmation Hearing Notice, the Distribution Election Forms, the Plan Supplement, and the other materials distributed by the Debtors in connection with Confirmation of the Plan (collectively, the “*Confirmation Materials*”), including but not limited to the Committee Solicitation Letter, were transmitted and served in compliance with the Bankruptcy Rules, including Bankruptcy Rules 3017 and 3018, with the Local Bankruptcy Rules for the Eastern District of New York (the “*Local Rules*”), and with the procedures set forth in the Disclosure Statement Order. Notice of the Confirmation Hearing was appropriate and satisfactory based upon the circumstances of the Debtors’ Chapter 11 Cases.

The transmittal and service of the Confirmation Materials complied with the approved Solicitation Procedures, was appropriate and satisfactory based upon the circumstances of the Chapter 11 Cases, was conducted in good faith, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any other applicable rules, laws, and regulations. Because such transmittal and service were adequate and sufficient, no other or further notice is necessary or shall be required.

**F. Voting.**

6. On March 12, 2014, the Notice, Claims, and Solicitation Agent filed the Voting Certification with the Court. As evidenced by the Voting Certification, votes to accept or reject the Plan have been solicited and tabulated fairly, in good faith, and in a manner consistent with the Bankruptcy Code, the Bankruptcy Rules, Solicitation Procedures, and the Local Rules.

**G. Good Faith Solicitation (11 U.S.C. § 1125(e)).**

7. Based on the record before the Court in the Chapter 11 Cases, the Debtors, the Committee, and the Supporting Parties, and their respective members, directors, officers, employees, representatives, attorneys, financial advisors, investment bankers, agents, restructuring advisors, and other professionals have acted in “good faith” within the meaning of section 1125(e) of the Bankruptcy Code and in compliance with the applicable provisions of the Solicitation Procedures, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules in connection with all of their respective activities relating to the solicitation of acceptances to the Plan and their participation in the Chapter 11 Cases and the activities described in section 1125 of the Bankruptcy Code, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.



**H. Plan Supplement.**

8. The filing and notice of the Plan Supplement was proper and in accordance with the Plan, the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order, and no other or further notice is or shall be required.

**I. Modifications to the Plan.**

9. Pursuant to section 1127 of the Bankruptcy Code, any modifications to the Plan since the commencement of solicitation described or set forth herein constitute technical changes or changes with respect to particular Claims made pursuant to the agreement of the Holders of such Claims and do not materially or adversely affect or change the treatment of any other Claims or Interests. Pursuant to Bankruptcy Rule 3019, these modifications do not require additional disclosure under section 1125 of the Bankruptcy Code or the resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that the Holders of Claims or Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan.

**J. Objections.**

10. To the extent that any objections, reservations of rights, statements or joinders to Confirmation have not been resolved, withdrawn, waived, or settled prior to entry of this Confirmation Order or otherwise resolved herein or as stated on the record of the Confirmation Hearing, they are hereby overruled on the merits based on the record before this Court.

**K. Burden of Proof.**

11. The Debtors, as the proponents of the Plan, have met their burden of proving the elements of sections 1129(a) and (b) of the Bankruptcy Code by a preponderance of the evidence, which is the applicable evidentiary standard.

**L. Bankruptcy Rule 3016.**

12. The Plan is dated and identifies the Debtors as the Plan proponents, thereby satisfying Bankruptcy Rule 3016(a). The filing of the Disclosure Statement satisfied Bankruptcy Rule 3016(b).

**M. Plan Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(1)).**

13. The Plan complies with the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code.

- a. Proper Classification (11 U.S.C. §§ 1122, 1123(a)(1)). As required by section 1123(a)(1), in addition to Administrative Claims (including Accrued Professional Fee Claims) and Priority Tax Claims, which need not be classified, Article III of the Plan designates 37 Classes of Claims and Interests. As required by section 1122(a) of the Bankruptcy Code, the Claims and Interests placed in each Class are substantially similar to other Claims and Interests, as the case may be, in each such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Interests created under the Plan, and such Classes do not unfairly discriminate between Holders of Claims and Interests. Thus, the Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.
- b. Specified Unimpaired Classes (11 U.S.C. § 1123(a)(2)). Article III of the Plan specifies that Classes 1, 2, 20, 28, 36, and 37 are Unimpaired under the Plan, thereby satisfying section 1123(a)(2) of the Bankruptcy Code.
- c. Specified Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)). Article III of the Plan sets forth the treatment of Classes 3–19, 21–27, and 29–35, which are the Impaired Classes, thereby satisfying section 1123(a)(3) of the Bankruptcy Code.
- d. No Discrimination (11 U.S.C. § 1123(a)(4)). Article III of the Plan provides for the same treatment by the Debtors for each Claim or Interest in each respective Class except to the extent that a Holder of a particular Claim or Interest has agreed to a less favorable treatment of such Claim or Interest, thereby satisfying section 1123(a)(4) of the Bankruptcy Code.
- e. Implementation of the Plan (11 U.S.C. § 1123(a)(5)). The Plan and the various documents included in the Plan Supplement provide adequate and proper means for implementation of the Plan, including, without limitation: (i) the restructuring of the Debtors' balance sheet and other financial transactions provided for by the Plan; (ii) implementation of the Global Settlement among the Supporting Parties contemplated by Article IV.I of the Plan and the Global Settlement Motion; (iii) the New Corporate Governance Documents; (iv) the consummation of the

transactions contemplated by the Plan Support Agreement, including the Restructuring Transactions; (v) the cancellation of the CL Holdings Interests; (vi) the issuance of the New Equity; (vii) the cancellation of certain existing agreements, obligations, instruments, and Interests; (viii) the entrance into the Exit Revolver Facility and the New Debt Facility; (ix) the continued vesting of the assets of the Debtors' Estates in the Reorganized Debtors; and (x) the execution, delivery, filing, or recording of all contracts, instruments, releases, and other agreements or documents in furtherance of the Plan, thereby satisfying section 1123(a)(5) of the Bankruptcy Code.

- f. Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)). The New Corporate Governance Documents prohibit the issuance of non-voting securities and provide an appropriate distribution of voting power among the several classes of securities possessing such power. As such, the Plan satisfies the requirements of section 1123(a)(6) of the Bankruptcy Code.
- g. Designation of Directors and Officers (11 U.S.C. § 1123(a)(7)). The Debtors' initial directors and officers, to the extent known, have been disclosed prior to the Confirmation Hearing and, to the extent not known, will be determined in accordance with the New Corporate Governance Documents, which is consistent with the interests of creditors and equity holders and public policy and satisfies section 1123(a)(7) of the Bankruptcy Code.
- h. Additional Plan Provisions (11 U.S.C. § 1123(b)). The additional provisions of the Plan are appropriate and consistent with the applicable provisions of the Bankruptcy Code, and are therefore consistent with section 1123(b) of the Bankruptcy Code.
  - (i) Impairment/Unimpairment of Any Class of Claims or Interests (11 U.S.C. § 1123(b)(1)). Pursuant to the Plan, Classes 1, 2, 20, 28, 36, and 37 are Unimpaired, and Classes 3–19, 21–27, and 29–35 are Impaired as contemplated by section 1123(b)(1) of the Bankruptcy Code.
  - (ii) Assumption and Rejection of Executory Contracts and Unexpired Leases (11 U.S.C. § 1123(b)(2)). Article V of the Plan provides for the assumption and, with respect to certain Executory Contracts and Unexpired Leases, assignment of the Debtors' Executory Contracts and Unexpired Leases as of the Effective Date unless such Executory Contract or Unexpired Lease: (A) was previously rejected; (B) was previously expired or terminated pursuant to its own terms; (C) is the subject of a motion or notice to reject filed on or before the Confirmation Date; or (D) is designated specifically or by category on the Schedule of Rejected Executory Contracts and Unexpired Leases in the Plan Supplement.
  - (iii) Retention of Claims (11 U.S.C. § 1123(b)(3)). In accordance with section 1123(b)(3) of the Bankruptcy Code, Article IV.Z provides that, except where such Causes of Action have been expressly waived, relinquished,

exculpated, released, compromised, or settled under the Plan (including, without limitation, pursuant to Articles IV.BB, IV.CC, VIII.A, VIII.C, and VIII.E of the Plan), the Reorganized Debtors shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, including any actions specifically enumerated in the Plan Supplement, and the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date.

- (iv) Other Appropriate Provisions (11 U.S.C. § 1123(b)(6)). The Plan's other provisions are appropriate and consistent with the applicable provisions of the Bankruptcy Code, including, without limitation, provisions for (A) distributions to Holders of Claims and Interests, (B) resolution of Disputed Claims, (C) allowance of certain Claims, (D) indemnification obligations, (E) releases by the Debtors of certain parties, (F) releases by certain third parties, (G) exculpations of certain parties, and (H) retention of Court jurisdiction, thereby satisfying the requirements of section 1123(b)(6).
- i. Cure of Defaults (11 U.S.C. § 1123(d)). Article V.C of the Plan provides for the satisfaction of cure Claims associated with each Executory Contract and Unexpired Lease to be assumed in accordance with section 365(b)(1) of the Bankruptcy Code. The cure amounts identified in the Schedule of Assumed Executory Contracts and Unexpired Leases (in the Plan Supplement) and any amendments thereto, as applicable, represent the amount, if any, that the Debtors shall pay in full and complete satisfaction of such cure Claims. Any disputed cure amounts will be determined in accordance with the procedures set forth in Article V.C of the Plan, and applicable bankruptcy and nonbankruptcy law. As such, the Plan provides that the Debtors will cure, or provide adequate assurance that the Debtors will promptly cure, defaults with respect to assumed Executory Contracts and Unexpired Leases in compliance with section 365(b)(1) of the Bankruptcy Code. Thus, the Plan complies with section 1123(d) of the Bankruptcy Code.

**N. The Debtors' Compliance with the Bankruptcy Code (11 U.S.C. § 1129(a)(2)).**

14. The Debtors have complied with the applicable provisions of the Bankruptcy Code, as required by section 1129(a)(2) of the Bankruptcy Code. Specifically:

- a. the Debtors are eligible debtors under section 109 of the Bankruptcy Code and are proper proponents of the Plan under section 1121(a) of the Bankruptcy Code;
- b. the Debtors have complied with applicable provisions of the Bankruptcy Code, except as otherwise provided or permitted by orders of the Bankruptcy Court; and

- c. the Debtors have complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules in transmitting the Confirmation Materials and related notices and in soliciting and tabulating the votes on the Plan.

**O. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)).**

15. The Debtors have proposed the Plan (including the Plan Supplement and all other documents necessary to effectuate the Plan) in good faith and not by any means forbidden by the law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, the Court has examined the totality of the circumstances surrounding the filing of the Chapter 11 Cases and the formulation of the Plan. The Debtors' good faith is evident from the facts and record of the Chapter 11 Cases, the Disclosure Statement, and the record of the Confirmation Hearing and other proceedings held in the Chapter 11 Cases. The Plan was proposed with the legitimate and honest purpose of maximizing the value of the Debtors' Estates and to effectuate a successful reorganization of the Debtors. The Plan was the product of extensive negotiations conducted at arm's length among the Debtors and certain of their key stakeholders, including the Committee and the Supporting Parties. Further, the Plan's classification, indemnification, settlement, discharge, exculpation, release, and injunction provisions have been negotiated in good faith and at arm's length, are consistent with sections 105, 1122, 1123(b)(6), 1129, and 1142 of the Bankruptcy Code, and are each necessary for the Debtors' successful reorganization. Accordingly, the requirements of section 1129(a)(3) of the Bankruptcy Code are satisfied.

**P. Payment for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)).**

16. Any payment made or to be made by the Debtors, or by a person issuing securities or acquiring property under the Plan, for services or for costs and expenses in connection with the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, has

been approved by, or is subject to the approval of, the Court as reasonable, thereby satisfying section 1129(a)(4) of the Bankruptcy Code.

**Q. Directors, Officers, and Insiders (11 U.S.C. § 1129(a)(5)).**

17. The Debtors have complied with section 1129(a)(5) of the Bankruptcy Code. To the extent not disclosed in the Plan Supplement, the identities of the Reorganized Debtors' directors and officers shall be determined in accordance with the New Corporate Governance Documents. Accordingly, the Debtors have satisfied the requirements of section 1129(a)(5) of the Bankruptcy Code.

**R. No Rate Changes (11 U.S.C. § 1129(a)(6)).**

18. Section 1129(a)(6) of the Bankruptcy Code is satisfied because the Plan does not provide for any rate changes over which a governmental regulatory commission has jurisdiction.

**S. Best Interests of Creditors (11 U.S.C. § 1129(a)(7)).**

19. Each Holder of an Impaired Claim or Interest either has accepted the Plan or will receive or retain under the Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on such date.

20. The liquidation analysis attached as **Exhibit F** to the Disclosure Statement (the "***Liquidation Analysis***") and the other evidence related thereto in support of the Plan that was proffered or adduced at or prior to the Confirmation Hearing or in the Confirmation Declaration: (a) are reasonable, persuasive, credible, and accurate as of the dates such analyses or evidence was prepared, presented, or proffered; (b) utilize reasonable and appropriate methodologies and assumptions; (c) have not been controverted by other evidence; and (d) establish that Holders of Allowed Claims in every Class will recover as much or more under the Plan on account of such Claim or Interest, as of the Effective Date, than the amount such Holder would receive if the

Debtors were liquidated under chapter 7 of the Bankruptcy Code. Accordingly, the Plan satisfies the “best interest of creditors” test under section 1129(a)(7) of the Bankruptcy Code.

**T. Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)).**

21. Classes 1, 2, 20, 28, 36, and 37 are Unimpaired by the Plan pursuant to section 1124 of the Bankruptcy Code and, accordingly, Holders of Claims or Interests in such Classes are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Classes 3, 12, 16, 21–24, 26, 29–32, and 34 are Impaired by the Plan and have voted to accept the Plan, as established by the Voting Certification. No Classes are Impaired by the Plan and voted to reject the Plan, as established by the Voting Certification. Holders of Claims or Interests in Classes 4–11, 13–15, 17–19, 25, 27, 33, and 35 will not receive or retain any property on account of their Claims or Interests and, accordingly, such Claims and Interests are Impaired and such Holders are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code.

**U. Treatment of Administrative Claims, Priority Tax Claims, Secured Tax Claims, and Priority Non-Tax Claims (11 U.S.C. § 1129(a)(9)).**

22. The treatment of Administrative Claims and Priority Tax Claims pursuant to Articles II and III of the Plan satisfies the requirements of sections 1129(a)(9) of the Bankruptcy Code. Accordingly, the Debtors have satisfied the requirements of section 1129(a)(9) of the Bankruptcy Code.

**V. Acceptance By at Least One Impaired Class of Claims (11 U.S.C. § 1129(a)(10)).**

23. Claims in Classes 3–19, 21–27, and 29–35 are Impaired by the Plan. Classes 3, 12, 16, 21–24, 26, 29–32, and 34 have voted to accept the Plan, as established by the Voting Certification. Accordingly, the Plan satisfies section 1129(a)(10) of the Bankruptcy Code.

**W. Feasibility (11 U.S.C. § 1129(a)(11)).**

24. The evidence proffered or adduced at the Confirmation Hearing and set forth in Confirmation Declarations (a) is reasonable, persuasive, and credible, (b) has not been controverted by other evidence, (c) utilizes reasonable and appropriate methodologies and assumptions, and (d) establishes that the Plan is feasible and that there is a reasonable prospect of the Reorganized Debtors being able to meet their financial obligations under the Plan and in the ordinary course of their business, and that confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Reorganized Debtors. Therefore, the Plan satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code.

**X. Payment of Fees (11 U.S.C. § 1129(a)(12)).**

25. As set forth in Article II.D of the Plan, all fees payable pursuant to section 1930 of title 28 of the United States Code, and any interest thereon pursuant to section 3717 of title 31 of the United States Code, due and payable through the Effective Date shall be paid by the Debtors on or before the Effective Date and amounts due thereafter shall be paid by the Reorganized Debtors in the ordinary course of business until the Court enters a final decree closing the Debtors' Chapter 11 Cases, dismisses the Chapter 11 Cases, or converts the Chapter 11 Cases to another chapter in bankruptcy.

**Y. Retiree Benefits (11 U.S.C. § 1129(a)(13)).**

26. Section 1129(a)(13) of the Bankruptcy Code requires a plan to provide for "retiree benefits" (as defined in section 1114 of the Bankruptcy Code) at levels established pursuant to section 1114 of the Bankruptcy Code. The Debtors do not provide any "retiree benefits" plans within the meaning of section 1114 of the Bankruptcy Code. Accordingly, section 1129(a)(13) of the Bankruptcy Code is inapplicable in the Chapter 11 Cases.



**Z. No Domestic Support Obligations (11 U.S.C. § 1129(a)(14)).**

27. The Debtors are not required by a judicial or administrative order, or by statute, to pay a domestic support obligation. Accordingly, section 1129(a)(14) of the Bankruptcy Code is inapplicable in the Chapter 11 Cases.

**AA. The Debtors Are Not an Individual (11 U.S.C. § 1129(a)(15)).**

28. The Debtors are not an individual. Accordingly, section 1129(a)(15) of the Bankruptcy Code is inapplicable in the Chapter 11 Cases.

**BB. No Applicable Nonbankruptcy Law Regarding Transfers (11 U.S.C. § 1129(a)(16)).**

29. The Debtors are a moneyed, business, or commercial corporation. Accordingly, section 1129(a)(16) of the Bankruptcy Code is inapplicable in the Chapter 11 Cases.

**CC. Confirmation of Plan Over Non-Acceptance of Impaired Classes (11 U.S.C. § 1129(b)).**

30. The Plan may be confirmed pursuant to section 1129(b) of the Bankruptcy Code notwithstanding that the requirements of section 1129(a)(8) have not been met, because the Debtors have demonstrated by a preponderance of the evidence that the Plan (a) satisfies all of the other requirements of section 1129(a) of the Bankruptcy Code and (b) does not “discriminate unfairly” and is “fair and equitable” with respect to the Rejecting Classes.

31. The Plan does not “discriminate unfairly” against any Holders of Claims or Interests in any Class that voted or is deemed to reject the Plan (the “*Rejecting Classes*”). The treatment of such Holders is proper because all similarly situated Holders of Claims and Interests will receive substantially similar treatment, and the Debtors have a valid rationale, including for the rationales articulated in the Global Settlement Motion and the Confirmation Brief, for the Plan’s classification scheme and the disparate treatment, if any, provided for different Classes.

32. The Plan is also “fair and equitable” with respect to each Rejecting Class. To the extent any Holder of Claims or Interests junior to any Rejecting Class is receiving a distribution under the Plan, such distribution arises (a) on account of the Global Settlement implemented by the Plan and the agreements of the Supporting Parties in connection with the Global Settlement and under the Plan or (b) with respect to the Intercompany Interests, as a matter of administrative convenience, for the ultimate benefit of the Holders of New Equity, and in exchange for the Debtors’ and Reorganized Debtors’ agreement under the Plan to make certain distributions to Holders of Allowed Claims and not on account of the applicable Holder’s Intercompany Interest.

33. The Plan, therefore, satisfies the requirements of section 1129(b) of the Bankruptcy Code and may be confirmed despite the fact that not all Impaired Classes have voted to accept the Plan.

**DD. Only One Plan (11 U.S.C. § 1129(c)).**

34. The Plan is the only plan filed in the Chapter 11 Cases, and, accordingly, section 1129(c) of the Bankruptcy Code is inapplicable in the Chapter 11 Cases.

**EE. Principal Purpose of the Plan (11 U.S.C. § 1129(d)).**

35. The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act of 1933, thereby satisfying section 1129(d) of the Bankruptcy Code.

**FF. Not Small Business Cases (11 U.S.C. § 1129(e)).**

36. These Chapter 11 Cases are not small business cases, and accordingly, section 1129(e) of the Bankruptcy Code is inapplicable in the Chapter 11 Cases.

**GG. Plan Implementation.**

37. The terms of the Plan, including, without limitation, the Plan Supplement and all exhibits and schedules thereto, the Plan Support Agreement, and all other documents filed in

connection with the Plan or the Plan Support Agreement, and/or executed or to be executed in connection with the transactions contemplated by the Plan and all amendments and modifications of any of the foregoing made pursuant to the provisions of the Plan governing such amendments and modifications (collectively, the “*Plan Documents*”) are incorporated by reference, are approved in all respects, and constitute an integral part of this Confirmation Order.

**HH. Binding and Enforceable.**

38. The Plan and the Plan Documents have been negotiated in good faith and at arm’s length and, subject to the occurrence of the Effective Date, shall bind any Holder of a Claim or Interest and such Holder’s respective successors and assigns, whether or not the Claim or Interest is Impaired under the Plan, whether or not such Holder has accepted the Plan, and whether or not such Holder is entitled to a distribution under the Plan. The Plan and the Plan Documents constitute legal, valid, binding, and authorized obligations of the respective parties thereto and shall be enforceable in accordance with their terms. Pursuant to section 1142(a) of the Bankruptcy Code, the Plan, and the Plan Documents shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

**II. Vesting of Assets.**

39. Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated therein, on the Effective Date, all property in each Estate, all Causes of Action, and any property acquired by any of the Debtors pursuant to the Plan shall vest in each respective Reorganized Debtor, free and clear of all Liens, Claims, charges, Causes of Action, or other encumbrances. On and after the Effective Date, except as otherwise provided in the Plan, each Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any Claims, Interests, or Causes of Action without supervision or

approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

**JJ. Management Incentive Plan.**

40. The Management Incentive Plan is an essential element of the Plan, and the terms of the Management Incentive Plan and the payments contemplated therein are reasonable and comparable to the market. Additionally, the Debtors have provided sufficient and adequate notice of the terms of the Management Incentive Plan. The terms and conditions of the Management Incentive Plan have been negotiated in good faith and at arm's length with the Debtors' primary stakeholders, including the Committee and the Supporting Parties.

**KK. Approval of Exit Revolver Facility.**

41. The Exit Revolver Facility is an essential element of the Plan, is necessary for Confirmation and the consummation of the Plan, and is critical to the overall success and feasibility of the Plan, and entry into the Exit Revolver Facility Agreement and the other Exit Revolver Facility Documents is in the best interests of the Debtors, their Estates, and all Holders of Claims or Interests. The Debtors have exercised reasonable business judgment in determining to enter into the Exit Revolver Facility Agreement and the other Exit Revolver Facility Documents and have provided sufficient and adequate notice of the material terms of the Exit Revolver Facility, which material terms were filed as part of the Plan Supplement. The terms and conditions of the Exit Revolver Facility are fair and reasonable, and the Exit Revolver Facility was negotiated in good faith and at arm's length. The Debtors are authorized, without further approval of the Court or any other party, to execute and deliver all agreements, guarantees, instruments, mortgages, control agreements, certificates, and other documents relating to the Exit Revolver Facility and to perform their obligations thereunder, including,

without limitation, the payment of all fees, indemnities, and expenses provided therein and/or in the Exit Financing Order.

**LL. Approval of New Debt Facility**

42. The New Debt Facility is an essential element of the Plan, is necessary for Confirmation and the consummation of the Plan, and is critical to the overall success and feasibility of the Plan, and entry into the New Debt Facility Agreement and the other New Debt Facility Documents is in the best interests of the Debtors, their Estates, and all Holders of Claims or Interests. The Debtors have exercised reasonable business judgment in determining to enter into the New Debt Facility Agreement and the other New Debt Facility Documents and have provided sufficient and adequate notice of the material terms of the New Debt Facility, which material terms were filed as part of the Plan Supplement. The terms and conditions of the New Debt Facility are fair and reasonable, and the New Debt Facility was negotiated in good faith and at arm's length. The Debtors are authorized, without further approval of the Court or any other party, to execute and deliver all agreements, guarantees, instruments, mortgages, control agreements, certificates, and other documents relating to the New Debt Facility and to perform their obligations thereunder, including, without limitation, the payment of all fees, indemnities, and expenses provided therein and/or in the Exit Financing Order.

**MM. Issuance of New Equity.**

43. Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance, and distribution of the New Equity and any other securities to be issued and distributed (including the distributions described in the Restructuring Transactions), whether on the Effective Date or any other date of a distribution thereafter, pursuant to the terms of the Plan and/or in accordance with this Confirmation Order on account of, and in exchange for, Claims (including, without limitation) against the Debtors comply with section 1145 of the Bankruptcy Code and shall be

exempt from, among other things, the registration and prospectus delivery requirements of Section 5 of the Securities Act and any other applicable state and federal law requiring registration and/or delivery of a prospectus prior to the offering, issuance, distribution, or sale of securities. In addition, under section 1145 of the Bankruptcy Code, any securities contemplated by the Plan and any and all agreements incorporated therein, including the New Equity, shall be subject to (a) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, (b) compliance with any rules and regulations of the Securities and Exchange Commission, if any, applicable at the time of any future transfer of such securities or instruments, (c) the restrictions, if any, on the transferability of such securities and instruments, including those set forth in the New Corporate Governance Documents, and (d) applicable regulatory approval, if any.

44. Each share of the New Equity issued and distributed pursuant to the Plan shall be uncertificated and duly authorized, validly issued, and fully paid and non-assessable. Each distribution and issuance referred to in Article VI of the Plan shall be governed by the terms and conditions set forth in the Plan applicable to such distribution or issuance and by the terms and conditions of the instruments evidencing or relating to such distribution or issuance, and which shall be in form and substance acceptable to the Required Consenting Lenders and consistent with the terms of the Plan Support Agreement, which terms and conditions shall bind each Entity receiving such distribution or issuance. The New Equity need not be issued through the facilities of the Depository Trust Company (“*DTC*”) and the Debtors may require recipients thereof to identify themselves through the provision of information requested by the Debtors. The Debtors and/or Reorganized Debtors may reflect the issuance of New Equity with the delivery of certificates solely at the request of a recipient of New Equity. Should the Reorganized Debtors

elect on a date post-Effective Date to reflect any ownership of the New Equity through the facilities of the DTC, the Reorganized Debtors need not provide any further evidence other than this Confirmation Order with respect to the treatment of the New Equity under applicable securities laws.

45. For all purposes under the Plan (including the Management Incentive Plan), the New Equity shall be ascribed a value equal to the implied value of the New Equity given a total enterprise value of the Reorganized Debtors of \$3.6 billion.

**NN. Executory Contracts and Unexpired Leases.**

46. The Debtors have exercised sound business judgment in determining whether to assume or reject each of their Executory Contracts and Unexpired Leases pursuant to sections 365 and 1123(b)(2) of the Bankruptcy Code, Article V of the Plan, and as set forth in the Plan Supplement. Except as set forth herein and/or in separate orders entered by the Court relating to assumption of Executory Contracts or Unexpired Leases, the Debtors have cured or provided adequate assurances that the Debtors will cure defaults (if any) under or relating to each Executory Contract or Unexpired Lease assumed under the Plan.

47. Nothing in the Plan or the Confirmation Order shall prevent a party to an Executory Contract rejected pursuant to the Plan from filing a Proof of Claim based on such rejection within 30 days after the effective date of rejection of such Executory Contract. Nothing in the Plan or this Confirmation Order shall prevent a party to an Executory Contract assumed pursuant to the Plan, or otherwise, from continuing to prosecute an objection to the Cure Cost related to such assumed Executory Contract if such objection is timely filed on or before the Voting Deadline but not resolved before the Effective Date.

**OO. Discharge, Compromise, Settlement, Release, Exculpation, and Injunction Provisions.**

48. The Court has jurisdiction under sections 1334(a) and (b) of title 28 of the United States Code to approve the discharge, compromises, settlements, releases, exculpations, and injunctions set forth in Article IV and Article VIII of the Plan. Sections 105(a) and 1123(b) of the Bankruptcy Code permit issuance of the injunctions and approval of the releases, exculpations, and injunctions set forth in Article IV and Article VIII of the Plan. Based upon the record of the Chapter 11 Cases and the evidence proffered or adduced at the Confirmation Hearing, the Court finds that the discharge, compromises, settlements, releases, exculpations, and injunctions set forth in Article IV and Article VIII of the Plan are consistent with the Bankruptcy Code and applicable law. Further, the discharge, compromises, settlements, releases, exculpations, and injunctions contained in Article IV and Article VIII of the Plan are integral components of the Plan and the Global Settlement. The discharge, compromises, settlements, releases, exculpations, and injunctions set forth in Article IV and Article VIII of the Plan are hereby approved and authorized in their entirety.

49. The distributions and other consideration received by Holders of First Lien Claims and Holders of Second Lien Claims under the Plan are sufficient under Bankruptcy Rule 9019 to support the binding waivers and releases of any and all claims and causes of action that have been asserted or could have been asserted prior to the Effective Date with respect to any disputes arising in connection with or otherwise related to the Second Lien Intercreditor Agreement: (a) against the Second Lien Indenture Trustee and/or any Holder of Second Lien Claims by the First Lien Credit Facility Agents, First Lien Indenture Trustee, and each Holder of First Lien Claims (and for each of the foregoing, their respective successors or assigns); or (b) against the First Lien Credit Facility Agents, First Lien Indenture Trustee, and/or any Holder of



First Lien Claims by the Second Lien Indenture Trustee and/or any Holder of Second Lien Claims (and for each of the foregoing, their respective successors or assigns).

**PP. Debtor Release.**

50. The releases described in Articles IV.BB, IV.CC, and VIII.C of the Plan are an integral part of the Plan and represent a valid exercise of the Debtors' business judgment. For the reasons set forth in the Global Settlement and based on the compromises and settlements contained in the Plan, the releases provided for in the Plan are in the best interests of the Debtors. The releases described in Articles IV.BB, IV.CC, and VIII.C of the Plan are: (a) in exchange for good and valuable consideration provided by the Releasees; (b) a good-faith compromise and settlement of the Causes of Action released by the Debtors; (c) in the best interests of the Debtors and all Holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to any of the Debtors, the Reorganized Debtors or any Holder of a Claim or Interest that would have been legally entitled to assert any Cause of Action on behalf of any of the Debtors or the Estates from asserting any Cause of Action released by the releases described in Articles IV.BB, IV.CC, and VIII.C of the Plan against any of the Releasees.

**QQ. Third-Party Release.**

51. The releases described in Article VIII.D of the Plan are an integral part of the Plan. The releases described in Article VIII.D of the Plan are : (a) in exchange for good and valuable consideration provided by the Releasees; (b) a good-faith compromise and settlement of the Causes of Action released by the Releasees; (c) in the best interests of the Debtors and all Holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to any of the Releasing Parties asserting any

Cause of Action released by the releases described in Article VIII.D of the Plan against any of the Releasees.

**RR. Exculpation.**

52. The exculpation provisions set forth in Article VIII.E of the Plan are essential to the Plan. The record in the Chapter 11 Cases fully supports the exculpation provisions, and the exculpation provisions set forth in Article VIII.E of the Plan are appropriately tailored to protect the Exculpated Parties from inappropriate litigation.

**SS. Injunction.**

53. The injunction provisions set forth in Article VIII.F of the Plan are essential to the Plan; are necessary to preserve and enforce the releases set forth in Articles IV.BB, IV.CC, VIII.C, and VIII.D of the Plan, the exculpation provisions in Article VIII.E of the Plan; and the compromises and settlements implemented under the Plan; and are narrowly tailored to achieve that purpose.

54. The releases set forth in Articles IV.BB, IV.CC, VIII.C, and VIII.D of the Plan, the exculpation provisions set forth in Article VIII.E of the Plan, and the injunction provisions set forth in Article VIII.F the Plan: (a) are within the jurisdiction of this Court under 28 U.S.C. §§ 1334(a), 1334(b), and 1334(d); (b) are an essential means of implementing the Plan pursuant to section 1123(a)(5) of the Bankruptcy Code; (c) are an integral element of the transactions incorporated into the Plan; (d) confer material benefits on, and are in the best interests of, the Debtors, the Estates, and their creditors; (e) are important to the overall objectives of the Plan to finally resolve all Claims or Causes of Action among or against the parties in interest in the Chapter 11 Cases with respect to the Debtors; and (f) are consistent with sections 105, 1123, and 1129 of the Bankruptcy Code, other provisions of the Bankruptcy Code, and other applicable law. The record of the Confirmation Hearing and the Chapter 11 Cases is sufficient to support

releases set forth in Articles IV.BB, IV.CC, VIII.C, and VIII.D of the Plan, the exculpation provisions set forth in Article VIII.E of the Plan, and the injunction provisions set forth in Article VIII.F the Plan.

**TT. Global Settlement.**

55. Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, the Global Settlement and related relief requested in the Global Settlement Motion or as otherwise provided under the Plan include, among other things, subject in all respects to the language of the Plan, (a) the settlement of pending and anticipated litigation of various Debtor-creditor and inter-creditor disputes and issues, (b) the total enterprise value of the Reorganized Debtors is \$3.6 billion for all purposes under the Plan, (c) the settlement of potential litigation of all issues and Claims against the Debtors including in each case with respect to substantive consolidation, treatment of Secured Claims against multiple Debtors, the validity and enforceability of Intercompany Claims, the allocation of asset values, which assets are encumbered and unencumbered, the voidability of liens, the validity and enforceability of subordination and turnover provisions in intercreditor agreements, claims and causes of action related to intercreditor agreements, (d) the settlement of certain Claims and Causes of Action asserted or that the PIK Notes Trustee asserts or could be asserted for the benefit of the Holders of PIK Notes Claims, and (e) the settlement of certain Claims and Causes of Action relating to, among other things, the Debtors and the Chapter 11 Cases, against the Releasees, including all pre-Effective Date Claims and Causes of Action which may be asserted against Apax, or each of the Releasees and Apax's respective predecessors, successors and assigns, and current and former shareholders, affiliates, subsidiaries, principals, employees, agents, officers, directors, managers trustees, partners, members, professionals, representatives, advisors, attorneys, financial advisors, accountants, investment bankers, and consultants, in each case in their capacity as such,

at any time, including (without limitation) arising from, related to, or in connection with any prepetition debt purchases by Apax or the Debtors or any prepetition management fees paid to Apax, as more fully set forth in the Plan.

56. The Global Settlement and related relief requested in the Global Settlement Motion (a) are a permitted means of implementing the Plan pursuant to section 1123(b) of the Bankruptcy Code; (b) are an integral element of the transactions incorporated into the Plan; (c) confer material benefits on, and are in the best interests of, the Debtors, the Estates, and their creditors; (d) are important to the overall objectives of the Plan to finally resolve all Claims among or against the parties in interest in the Chapter 11 Cases with respect to the Debtors; (e) are fair and equitable and represent a resolution within the range of reasonableness; and (f) are consistent with sections 105, 1123, and 1129 of the Bankruptcy Code, other provisions of the Bankruptcy Code, Bankruptcy Rule 9019, and other applicable law. The Global Settlement Motion and the Global Settlement are therefore approved.

**UU. Retention of Jurisdiction.**

57. Except as otherwise provided in any of the Plan Documents, the Court shall retain jurisdiction over these Chapter 11 Cases and all matters arising out of, or related to, these Chapter 11 Cases and the Plan, including the matters set forth in Article XI of the Plan.

**VV. Good Faith.**

58. The Debtors have proposed the Plan in good faith, with the legitimate and honest purposes of maximizing the value of each of the Debtors' Estates for the benefit of their stakeholders. The Plan gives effect to many of the Debtors' restructuring initiatives, including implementing a value maximizing restructuring transaction. Accordingly, the Debtors and the Supporting Parties (and all of their respective stockholders, members, officers, directors, agents, financial advisers, attorneys, employees, partners, Affiliates, and representatives) have been, are,

and will continue to act in good faith if they proceed to: (a) consummate the Plan and the Restructuring Transactions and the agreements, settlements, transactions, and transfers contemplated thereby; and (b) take the actions authorized and directed or contemplated by this Confirmation Order. Therefore, the Plan has been proposed in good faith to achieve a result consistent with the objectives and purposes of the Bankruptcy Code and the aforementioned parties have acted in good faith within the meaning of sections 1125(e) and 1126(e) the Bankruptcy Code.

\* \* \* \* \*

## II. ORDER

BASED ON THE FORGOING, IT IS HEREBY ORDERED:

### A. Confirmation.

59. The Plan, including all exhibits to the Plan, the Plan Supplement, and all exhibits to the Plan Supplement, shall be, and hereby are, confirmed under section 1129 of the Bankruptcy Code. The terms of the Plan Documents are incorporated by reference into, and are an integral part of, the Plan and this Confirmation Order and are authorized and approved, and the Debtors are authorized to implement their provisions and consummate the Plan without any further authorization except as expressly required by the Plan or this Confirmation Order.

### B. Objections.

60. All objections, responses, reservations, statements, and comments in opposition to the Plan, other than those resolved or withdrawn with prejudice prior to, or on the record at, the Confirmation Hearing are overruled on the merits.

### C. Plan Implementation.

61. General Authorization. The transactions described in the Plan and the Plan Documents are hereby approved. On or before the Effective Date, and after the Effective Date, as necessary, and without any further order of the Court or other authority, the Debtors and/or the Reorganized Debtors and their respective directors, officers, members, agents, attorneys, financial advisors, and investment bankers are authorized and empowered pursuant to section 1142(b) of the Bankruptcy Code and other applicable state laws to and shall (i) grant, issue, execute, deliver, file, or record any agreement, document, or security, and the documents contained in the Plan or the Plan Supplement (as modified, amended, and supplemented pursuant to the provisions of the Plan governing such modifications, amendments, and supplements), in substantially the form included therein, or any other documents related thereto and (ii) take any

action necessary or appropriate to implement, effectuate, and consummate the Plan and the Plan Documents in accordance with their terms. All such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Court without further approval, act, or action under any applicable law, order, rule, or regulation, including, among other things, (i) all transfers of assets that are to occur pursuant to the Plan, (ii) the incurrence of all obligations contemplated by the Plan and the making of all distributions under the Plan, and (iii) entering into any and all transactions, contracts, leases, instruments, releases, and other documents and arrangements permitted by applicable law, order, rule, or regulation. The approvals and authorizations specifically set forth in this Confirmation Order are nonexclusive and are not intended to limit the authority of the Debtors and/or the Reorganized Debtors or any officer thereof to take any and all actions necessary or appropriate to implement, effectuate, and consummate any and all documents or transactions contemplated by the Plan or this Confirmation Order pursuant to section 1142(b) of the Bankruptcy Code. Pursuant to section 1142 of the Bankruptcy Code, to the extent that, under applicable nonbankruptcy law or the rules of any stock exchange, any of the foregoing actions that would otherwise require approval of the equity holders or directors (or any equivalent body) of the Debtors or the Reorganized Debtors, such approval (including any board resolution required to confirm that the New Equity shall be uncertificated) shall be deemed to have occurred and shall be in effect from and after the Effective Date pursuant to the applicable law of the jurisdiction of incorporation or formation without any requirement of further action by the equity holders or directors (or any equivalent body) of the Debtors or the Reorganized Debtors. On the Effective Date, or as soon thereafter as is practicable, the Debtors or the Reorganized Debtors, as applicable, shall, if required, file any documents required to be filed in such jurisdictions so as to effectuate the provisions of the Plan.

Any or all documents contemplated herein shall be accepted by each of the respective filing offices and recorded, if required, in accordance with applicable law and shall become effective in accordance with their terms and the provisions of such applicable law. All counterparties to any documents described in this paragraph are hereby directed to execute such documents as may be required or provided by such documents, without any further order of the Court.

62. No Action. Pursuant to the appropriate provisions of the General Corporation Law of the State of Delaware (including section 303 thereof), section 1142(b) of the Bankruptcy Code, or other applicable law, this Confirmation Order shall constitute all authorizations required for the Debtors and/or the Reorganized Debtors to enter into, execute, deliver, file, adopt, amend, restate, consummate, or effectuate, as the case may be, the Plan, the New Corporate Governance Documents, the Exit Revolver Facility, the New Debt Facility, and any contract, instrument, or other document to be executed, delivered, adopted, or amended in connection with the implementation of the Plan, including the conversion of CL Holdings into a Delaware corporation, and the respective directors, stockholders, managers, or members of the Debtors or the Reorganized Debtors shall not be required to take any actions in connection with the implementation of the Plan, including but not limited to the New Corporate Governance Documents, the Exit Revolver Facility, and the New Debt Facility, each of which shall be hereby approved and adopted and effective upon the Effective Date.

**D. Binding Effect.**

63. On the date of and after entry of this Confirmation Order and subject to the occurrence of the Effective Date, the Plan and the Plan Documents shall bind any Holder of a Claim or Interest and such Holder's respective successors and assigns, whether or not: (a) the Claim or Interest is Impaired under the Plan, (b) such Holder has accepted the Plan, (c) failed to vote to accept or reject the Plan or voted to reject the Plan, (d) whether or not such Holder is



entitled to a distribution under the Plan, (e) will receive or retain any property or interests in property under the Plan, and (f) has filed a Proof of Claim in the Chapter 11 Cases. The Plan and the Plan Documents constitute legal, valid, binding, and authorized obligations of the respective parties thereto and shall be enforceable in accordance with their terms. Pursuant to section 1142(a) of the Bankruptcy Code, the Plan and the Plan Documents shall apply and be enforceable notwithstanding any otherwise applicable nonbankruptcy law.

**E. New Corporate Governance Documents; New Equity.**

64. On the Effective Date, the Reorganized Debtors shall enter into the New Corporate Governance Documents, and the New Corporate Governance Documents shall, as of the Effective Date, be valid, binding, and enforceable in accordance with their terms, and each Holder of New Equity shall be bound thereby, in each case without the need for execution by any party thereto other than the Reorganized Debtors.

65. Each Person or Entity that receives shares of New Equity pursuant to the Plan shall automatically be deemed a party to the New Shareholders Agreement and the New Registration Rights Agreement, in accordance with their terms, whether it receives shares on or after the Effective Date and regardless of whether it executes a signature page to the New Shareholders Agreement or the New Registration Rights Agreement.

66. Each Person or Entity that receives shares of New Equity pursuant to the Management Incentive Plan shall be subject to the restrictions contained in the Management Incentive Plan whether it receives awards thereunder on or after the Effective Date, and, from and after the date on which any Management Shareholder (as defined in the New Shareholders Agreement) becomes a holder of Company Common Shares (as defined in the New Shareholders Agreement) pursuant to the terms of the Management Incentive Plan, such Management Shareholder shall automatically be bound by the New Shareholders Agreement regardless of

whether it executed a signature page to the New Shareholders Agreement; provided that such Management Shareholder shall not be required as a condition or requirement of participating in a transaction subject to Sections 4.1 or 4.2 of the New Shareholder Agreement to agree to any restrictive covenants that impose greater restrictions than those to which such Management Shareholder is otherwise already bound (*e.g.*, pursuant to his or her employment agreement with the applicable Debtor).

67. Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance, and distribution of the New Equity and any other securities to be issued and distributed (including the distributions described in the Restructuring Transactions), whether on the Effective Date or any other date of a distribution thereafter, pursuant to the terms of the Plan and/or in accordance with this Confirmation Order on account of, and in exchange for, Claims (including, without limitation) against the Debtors comply with section 1145 of the Bankruptcy Code and shall be exempt from, among other things, the registration and prospectus delivery requirements of Section 5 of the Securities Act and any other applicable state and federal law requiring registration and/or delivery of a prospectus prior to the offering, issuance, distribution, or sale of securities. In addition, under section 1145 of the Bankruptcy Code, any securities contemplated by the Plan and any and all agreements incorporated therein, including the New Equity, shall be subject to (a) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, (b) compliance with any rules and regulations of the Securities and Exchange Commission, if any, applicable at the time of any future transfer of such securities or instruments, (c) the restrictions, if any, on the transferability of such securities and instruments, including those set forth in the New Corporate Governance Documents, and (d) applicable regulatory approval, if any.

68. Each share of the New Equity issued and distributed pursuant to the Plan and this Confirmation Order shall be duly authorized, validly issued, and fully paid and non-assessable. Each distribution and issuance referred to in Article VI of the Plan shall be governed by the terms and conditions set forth in the Plan applicable to such distribution or issuance and by the terms and conditions of the instruments evidencing or relating to such distribution or issuance, and which shall be in form and substance acceptable to the Required Consenting Lenders and consistent with the terms of the Plan Support Agreement, which terms and conditions shall bind each Entity receiving such distribution or issuance.

**F. Plan Classification Controlling.**

69. The terms of the Plan shall solely govern the classification of Claims and Interests for purposes of the distributions to be made thereunder. The classifications set forth on the Ballots tendered to or returned by the Holders of Claims or Interests in connection with voting on the Plan: (a) were set forth on the Ballots solely for purposes of voting to accept or reject the Plan; (b) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims and Interests under the Plan for distribution purposes; (c) may not be relied upon by any Holder of a Claim or Interest as representing the actual classification of such Claim or Interest under the Plan for distribution purposes; and (d) shall not be binding on the Debtors except for voting purposes.

**G. Operation as of the Effective Date.**

70. Notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, the Reorganized Debtors, and any and all Holders of Claims against or Interests in the Debtors (irrespective of whether their Claims or Interests are deemed to have accepted the Plan), all Entities that are

parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors. This Confirmation Order shall not be stayed and the terms and conditions of this Confirmation Order shall be immediately effective and enforceable upon its entry.

**H. Restructuring Transactions.**

71. The Debtors and the Reorganized Debtors are authorized to implement and consummate the Restructuring Transactions pursuant to the Plan and the Plan Supplement (as may be amended) and are authorized to execute and deliver all necessary documents or agreements required to perform their obligations thereunder. The Restructuring Transactions pursuant to the Plan are approved and authorized in all respects.

**I. Distributions.**

72. Subject to Article VI of the Plan, all amounts and securities necessary for the Debtors (on the Effective Date) or the Reorganized Debtors or the Disbursing Agent (on or after the Effective Date) to make payments or distributions pursuant hereto shall be obtained from the New Equity, the Exit Revolver Facility, the New Debt Facility, Cash of the Debtors, or other assets of the Debtors as set forth in the Plan.

73. As set forth in the Plan, the Withheld Apex Distribution will be \$12.0 million in Cash (subject to increase by the amount of any Withheld Apex Distribution Gross-Up) and will be distributed to all non-Apax Holders of Allowed Second Lien Claims (subject to increase by the amount of any Withheld Apex Distribution Gross-Up), Allowed Senior Notes Claims (subject to increase by the amount of any Withheld Apex Distribution Gross-Up), Allowed General Unsecured Claims, and Allowed PIK Notes Claims as part of the Other Unsecured Creditor Distribution as set forth in Article III.B of the Plan.

74. As set forth in the Plan, notwithstanding any transfer of an Other Unsecured Claim held by Apax, Apax shall cause the Withheld Apax Distribution to be \$12.0 million in Cash plus the amount of any Withheld Apax Distribution Gross-Up (if any) to be paid in Cash, including, in each case to the extent necessary (or if Apax so elects), through the payment of Cash by Apax to the Debtors on or prior to the Effective Date.

75. As set forth in the Plan and subject to the Distribution Election Procedures, for the avoidance of doubt, the applicability of the Equity Election Cap (as described in Article IV.B. of the Plan and including as to any election made by Apax) shall be determined based solely on the identity and holdings of the Holder that would be entitled to receive a distribution of New Equity and/or Cash in respect of such election as of the Distribution Record Date and, so long as such Holder is not Apax (or an Affiliate thereof), such determination shall be made without any regard to Apax's holdings at any time.

76. To the extent that the Cash that is reserved on the Effective Date to fund payments required under the Plan exceeds the actual amount of payments required under the Plan, such excess shall be distributed to the Holders of First Lien Claims as Distributable Cash as part of one, or a series of, subsequent distribution(s); provided that, for the avoidance of doubt, Holders of First Lien Claims, in their capacities as such, shall not be entitled to, or receive any, distribution from the Other Unsecured Creditor Distribution.

**J. Retained Assets.**

77. To the extent that the retention by the Debtors of assets held immediately prior to emergence in accordance with the Plan is deemed, in any instance, to constitute a "transfer" of property, such transfer of property to the Debtors (a) is or shall be a legal, valid, and effective transfer of property, (b) vests or shall vest the Debtors with good title to such property, free and clear of all liens, charges, Claims, encumbrances, or interests, except as expressly provided in the

Plan or this Confirmation Order, (c) does not and shall not constitute an avoidable transfer under the Bankruptcy Code or under applicable nonbankruptcy law, and (d) does not and shall not subject the Debtors to any liability by reason of such transfer under the Bankruptcy Code or under applicable nonbankruptcy law, including by laws affecting successor or transferee liability.

**K. Treatment of Executory Contracts and Unexpired Leases.**

78. Assumption of the Executory Contracts and Unexpired Leases listed on Exhibit A of the Plan Supplement is hereby authorized. Rejection of the Executory Contracts and Unexpired Leases listed on Exhibit B of the Plan Supplement is hereby authorized. Unless an Executory Contract or Unexpired Lease (a) was previously rejected, (b) was previously expired or terminated pursuant to its own terms, (c) is the subject of a motion or notice to reject filed on or before the Confirmation Date, or (d) is designated specifically or by category on the Schedule of Rejected Executory Contracts, such Executory Contract or Unexpired Lease shall be deemed to have been assumed by the applicable Debtor.

79. Unless a party to an Executory Contract has objected to the Cure Costs identified in the Plan Supplement and any amendments thereto, as applicable, the Debtors shall pay such Cure Costs in accordance with the terms of the Plan and the assumption and assignment of any Executory Contract or Unexpired Lease, pursuant to the Plan or otherwise, shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption and/or assignment. Any disputed Cure Costs shall be determined in accordance with the procedures set forth in Article V.C of the Plan, and applicable bankruptcy and nonbankruptcy law.

80. Any party to an Executory Contract whose contract is not listed on Exhibit A of the Plan Supplement and not listed on Exhibit B of the Plan Supplement shall be deemed to have a Cure Cost of \$0.00.

81. Executory Contracts and Unexpired Leases entered into by the Debtors after the Petition Date are not being assumed or rejected pursuant to the Plan and remain enforceable after the Effective Date by all parties pursuant to their terms.

82. Pursuant to Article V.C of the Plan, any Executory Contract or Unexpired Lease that is subject to an unresolved objection to the assumption of such Executory Contract or Unexpired Lease that is pending as of the Confirmation Date will not be assumed until entry of a Final Order resolving the dispute and approving the assumption of such Executory Contract or Unexpired Lease or as may be agreed upon by the Debtors or the Reorganized Debtors and the counterparty; provided that prior to the Effective Date, the Debtors, in consultation with the advisors to the Required Consenting Lenders, the First Lien Credit Facility Administrative Agent, and the Committee, or after the Effective Date, the Reorganized Debtors, may settle any dispute regarding the amount of any Cure Cost without any further notice to any party or any action, order, or approval of the Bankruptcy Court; provided, further, that notwithstanding anything to the contrary in the Plan, the Debtors reserve the right, in consultation with the advisors to the Required Consenting Lenders, the First Lien Credit Facility Administrative Agent, and the Committee, to either reject or nullify the assumption of any Executory Contract or Unexpired Lease within 45 days after the entry of a Final Order resolving an objection to assumption, determining the Cure Cost under an Executory Contract or Unexpired Lease that was subject to a dispute, or resolving any request for adequate assurance of future performance required to assume such Executory Contract or Unexpired Lease.

83. If the rejection of an executory contract or unexpired lease by the Debtors under the Plan results in damages to the other party or parties to such contract or lease, any claim for such damages, if not heretofore evidenced by a filed proof of claim, shall be forever barred and shall not be enforceable against the Debtors or its properties or agents, successors, or assigns, unless a proof of claim is filed with the Bankruptcy Court and served upon counsel to the Debtors on or before thirty (30) days after the Confirmation Date.

**L. Exit Revolver Facility.**

84. The Exit Revolver Facility (including the transactions contemplated thereby, such as any supplementation or additional syndication of the Exit Revolver Facility, and all actions to be taken, undertakings to be made, and obligations to be incurred by the Debtors or the Reorganized Debtors, as the case may be, in connection therewith, including, without limitation, the payment of all fees, indemnities, and expenses provided for therein or otherwise) and the granting of any liens and security interests and entry into and filing of any mortgages in favor of the agent or lenders, as applicable, under the Exit Revolver Facility securing such obligations (i) are hereby approved; (ii) shall be deemed to be valid, binding, and enforceable against the Debtors, the Reorganized Debtors, and their Affiliates party thereto in accordance with their terms, without any further corporate action required by the Debtors or the Reorganized Debtors, as the case may be; and (iii) shall be deemed perfected on the Effective Date, subject only to such Liens and security interests as may be permitted under the Exit Revolver Facility.

85. The Debtors and the Reorganized Debtors, as the case may be, are hereby authorized, without any further corporate action, to execute and deliver the Exit Revolver Facility Documents and any and all security agreements, guarantees, mortgages or extensions of mortgages, certificates, control agreements, insurance documents, opinions, and other instruments, agreements, assignments, and documents contemplated or required by the Exit



Revolver Facility, including, but not limited to, any and all such documents that serve to evidence and secure the Reorganized Debtors' respective obligations under the Exit Revolver Facility and any liens and security interests in favor of the lenders under the Exit Revolver Facility securing such obligations, and perform their obligations thereunder including, without limitation, the payment or reimbursement of any fees, expenses, losses, damages, or indemnities. The Reorganized Debtors may use the Exit Revolver Facility for any purpose permitted thereunder, including the funding of obligations under the Plan and satisfaction of ongoing working capital needs.

86. Subject to the occurrence of the Effective Date, the Exit Revolver Facility Documents and any and all security agreements, guarantees, mortgages or extensions of mortgages, certificates, control agreements, insurance documents, opinions, and other instruments, agreements, assignments, and documents contemplated or required by the Exit Revolver Facility, including, but not limited to, any and all such documents that serve to evidence and secure the Reorganized Debtors' respective obligations under the Exit Revolver Facility, and any liens and security interests in favor of the lenders under the Exit Revolver Facility securing such obligation shall constitute the legal, valid, and binding obligations of the Reorganized Debtors and be enforceable in accordance with their respective terms. The financial accommodations to be extended pursuant to the Exit Revolver Facility Documents by the Debtors to the lenders and other parties thereunder, the guarantees, mortgages, pledges, liens, and other security interests provided by the Debtors in connection therewith, and all other consideration granted pursuant to or in connection with the Exit Revolver Facility are being extended, and shall be deemed to have been extended, in good faith, for reasonably equivalent value, and for legitimate business purposes as an inducement to the lenders and other parties

under the Exit Revolver Facility to extend credit thereunder and shall be, and hereby are, deemed not to constitute a fraudulent conveyance or fraudulent transfer and shall not otherwise be subject to avoidance or recharacterization. Notwithstanding anything to the contrary in this Confirmation Order or the Plan, the Court's retention of jurisdiction shall not govern the enforcement of the Exit Revolver Facility Documents or any other documents executed in connection with the Exit Revolver Facility or any rights or remedies related thereto.

87. On the Effective Date, the Reorganized Debtors shall collateralize with Cash the First Lien Credit Facility Existing Letters of Credit in an amount equal to 105% of the face amount of such First Lien Credit Facility Existing Letters of Credit until such time as the First Lien Credit Facility Existing Letters of Credit are replaced by letters of credit issued under the Exit Revolver Facility.

**M. New Debt Facility**

88. The New Debt Facility (including the transactions contemplated thereby, such as any supplementation or additional syndication of the New Debt Facility, and all actions to be taken, undertakings to be made, and obligations to be incurred by the Debtors or the Reorganized Debtors, as the case may be, in connection therewith, including, without limitation, the payment of all fees, indemnities, and expenses provided for therein or otherwise) and the granting of any liens and security interests and entry into and filing of any mortgages in favor of the agent or lenders under the New Debt Facility, as applicable, securing such obligations (i) are hereby approved; (ii) shall be deemed to be valid, binding, and enforceable against the Debtors, the Reorganized Debtors, and their Affiliates party thereto in accordance with their terms, without any further corporate action required by the Debtors or the Reorganized Debtors, as the case may be; and (iii) shall be deemed perfected on the Effective Date, subject only to such Liens and security interests as may be permitted under the New Debt Facility.

89. The Debtors and the Reorganized Debtors, as the case may be, are hereby authorized, without any further corporate action, to execute and deliver the New Debt Facility Documents and any and all security agreements, guarantees, mortgages or extensions of mortgages, certificates, control agreements, insurance documents, opinions, and other instruments, agreements, assignments, and documents contemplated or required by the New Debt Facility, including, but not limited to, any and all such documents that serve to evidence and secure the Reorganized Debtors' respective obligations under the New Debt Facility and any liens and security interests in favor of the lenders under the New Debt Facility securing such obligations, and perform their obligations thereunder including, without limitation, the payment or reimbursement of any fees, expenses, losses, damages, or indemnities. The Reorganized Debtors may use the New Debt Facility for any purpose permitted thereunder, including the funding of obligations under the Plan and satisfaction of ongoing working capital needs.

90. Subject to the occurrence of the Effective Date, the New Debt Facility Documents and any and all security agreements, guarantees, mortgages or extensions of mortgages, certificates, control agreements, insurance documents, opinions, and other instruments, agreements, assignments, and documents contemplated or required by the New Debt Facility, including, but not limited to, any and all such documents that serve to evidence and secure the Reorganized Debtors' respective obligations under the New Debt Facility, and any liens and security interests in favor of the lenders under the New Debt Facility securing such obligation shall constitute the legal, valid, and binding obligations of the Reorganized Debtors and be enforceable in accordance with their respective terms. The financial accommodations to be extended pursuant to the New Debt Facility Documents by the Debtors to the lenders and other parties thereunder, the guarantees, mortgages, pledges, liens, and other security interests

provided by the Debtors, and all other consideration granted pursuant to or in connection with the New Debt Facility are being extended, and shall be deemed to have been extended, in good faith, for reasonably equivalent value, and for legitimate business purposes as an inducement to the lenders and other parties under the New Debt Facility to extend credit thereunder and shall be, and hereby are, deemed not to constitute a fraudulent conveyance or fraudulent transfer and shall not otherwise be subject to avoidance or recharacterization. Notwithstanding anything to the contrary in this Confirmation Order or the Plan, the Court's retention of jurisdiction shall not govern the enforcement of the New Debt Facility Documents or any other documents executed in connection with the New Debt Facility or any rights or remedies related thereto.

**N. Directors and Officers of Reorganized Debtors.**

91. The Reorganized Debtors' initial directors and officers, to the extent known, have been disclosed prior to the Confirmation Hearing. To the extent that any director or officer has not yet been determined, such determination will be made in accordance with the New Corporate Governance Documents and such appointment is hereby approved.

**O. Management Incentive Plan**

92. The Management Incentive Plan is hereby approved in its entirety and shall be implemented on the Effective Date by Reorganized Cengage without any further action by the New Board or the Bankruptcy Court. In accordance with the Management Incentive Plan, securities representing eighty (80) percent of the New Equity to be granted under the Management Incentive Plan shall be issued, allocated, and distributed on the Effective Date in accordance with the Management Incentive Plan and the Amended MIP Term Sheet, as defined in Exhibit A to the Plan Support Agreement.

**P. Exemption from Transfer Taxes.**

93. In accordance with section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of notes or equity securities under or in connection with the Plan, the creation and recording of any mortgage, deed of trust, or other security interest as collateral security for the Exit Revolver Facility, the New Debt Facility, or otherwise, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including any merger agreements or agreements of consolidation, deeds, bills of sale, or assignments executed in connection with any of the transactions contemplated under the Plan shall not be subject to any stamp or similar tax.

**Q. Exclusivity.**

94. The Debtors' exclusive periods to file a plan of reorganization and solicit votes thereon, pursuant to section 1121(d) of the Bankruptcy Code, are hereby extended through the Effective Date; provided that such extension is without prejudice to parties' rights to seek to shorten, subject to the Plan Support Agreement, such exclusive periods for cause pursuant to section 1121(d) of the Bankruptcy Code.

**R. Governmental Approvals Not Required.**

95. This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state or any other governmental authority with respect to the implementation or consummation of the Plan and the Plan Documents.

**S. Filing and Recording.**

96. This Confirmation Order is and shall be binding upon and shall govern the acts of all persons or entities including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative

agencies, governmental departments, secretaries of state, federal, state, and local officials, and all other persons and entities who may be required, by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any document or instrument. Each and every federal, state, and local government agency is hereby directed to accept any and all documents and instruments necessary, useful, or appropriate (including financing statements under the applicable uniform commercial code) to effectuate, implement, and consummate the transactions contemplated by the Plan and this Confirmation Order without payment of any stamp tax or similar tax imposed by state or local law.

**T. Discharge of Claims and Termination of Interests; Compromise and Settlement of Claims, Interests, and Controversies; Binding Effect of Releases and Exculpation.**

97. Pursuant to section 1141(d) of the Bankruptcy Code and Article VIII.A of the Plan, except as otherwise specifically provided in the Plan or in any contract, instrument, or other agreement or document created pursuant to the Plan, the distributions, rights, and treatment that are provided in the Plan shall be in complete satisfaction, discharge, and release, effective as of the Effective Date, of all debt (as such term is defined in section 101 of the Bankruptcy Code) that arose before the Confirmation Date, any debts of any kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, and the rights and Interests of any Holders of Interests whether or not: (a) a Proof of Claim based on such debt or Interest is Filed; (b) a Claim or Interest based upon such debt is Allowed pursuant to section 502 of the Bankruptcy Code; or (c) the Holder of such a Claim or Interest has accepted the Plan. These Orders shall be a judicial determination of the discharge of all Claims and equity Interests subject to the Effective Date occurring, except as provided for under section 1141(d)(6) of the Bankruptcy Code.

98. Pursuant to Bankruptcy Rule 9019 and section 1123(b)(3) of the Bankruptcy Code and in consideration for the classification, distributions, releases, and other benefits

provided pursuant to the Plan, on the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims, Interests, controversies, inter-creditor and inter-debtor issues and disputes (including those described in the Disclosure Statement), or issues relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest, all as reflected in the Global Settlement. The Global Settlement is hereby approved, as it is in the best interests of the Debtors, their Estates, and Holders of Claims and Interests and is fair, equitable, and within the range of reasonableness. In accordance with the provisions of the Plan and subject to Article IV.AA and Article VII of the Plan, pursuant to Bankruptcy Rule 9019 and section 1123(b)(3) of the Bankruptcy Code, without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Reorganized Debtors may compromise and settle Claims against the Debtors and their Estates and Causes of Action against other Entities.

99. Upon the Effective Date, all Avoidance Actions are hereby waived, released, and extinguished pursuant to the Plan.

100. Upon the Effective Date, except the adversary proceeding styled *Cole v. Cengage Learning, Inc. (In re Cengage Learning, Inc.)*, No. 14-1020 (ESS) (Bankr. E.D.N.Y.) or as otherwise provided by the Plan or this Confirmation Order, all ongoing litigation, including any adversary proceedings and contested matters in the Chapter 11 Cases (and related motions) pending as of the Confirmation Date shall be deemed dismissed with prejudice. For the avoidance of doubt and, except as expressly set forth in the Plan, any and all inter-creditor disputes that either have been asserted or could have been asserted by any person or Entity with respect to the Debtors or the Chapter 11 Cases prior to the Effective Date, including those arising

in connection with or otherwise related to the Second Lien Intercreditor Agreement, shall be waived and released by each such person or entity and the pending adversary proceeding relating thereto are hereby dismissed with prejudice as of the Effective Date of the Plan; provided that the foregoing shall not be deemed to waive or release any intercreditor disputes not related to the Debtors or the Chapter 11 Cases or as otherwise set forth in Article VIII.D or Article VIII.E of the Plan; provided, further, that, notwithstanding anything to the contrary in the Plan, the distributions and other consideration received by Holders of First Lien Claims and Holders of Second Lien Claims under the Plan shall be deemed sufficient under Bankruptcy Rule 9019 to support the binding waivers and releases of any and all claims and causes of action that have been asserted or could have been asserted prior to the Effective Date with respect to any disputes arising in connection with or otherwise related to the Second Lien Intercreditor Agreement: (a) against the Second Lien Indenture Trustee and/or any Holder of Second Lien Claims by the First Lien Credit Facility Agents, First Lien Indenture Trustee, and each Holder of First Lien Claims (and for each of the foregoing, their respective successors or assigns); or (b) against the First Lien Credit Facility Agents, First Lien Indenture Trustee, and/or any Holder of First Lien Claims by the Second Lien Indenture Trustee and/or any Holder of Second Lien Claims (and for each of the foregoing, their respective successors or assigns).

101. All release and exculpation provisions contained in the Plan, including, without limitation, in Article VIII of the Plan, are approved in their entirety and shall be effective and binding on all Persons to the extent provided therein.

**U. Record Date for Distributions to Holders of First Lien Credit Facility Claims.**

102. The Distribution Record Date for purposes of determining the Holders of First Lien Credit Facility Claims shall be the Confirmation Date. The Reorganized Debtors and the First Lien Credit Facility Administrative Agent shall have no obligation to recognize the transfer,



assignment or sale of, or any participation in, any First Lien Credit Facility Claim that is not reflected on the First Lien Credit Facility Administrative Agent's register prior to the close of business on the Confirmation Date, and will be entitled for all purposes to recognize and distribute only to those Holders of First Lien Credit Facility Claims that are Holders of such First Lien Credit Facility Claims per the register kept by the First Lien Credit Facility Administrative Agent as of the close of business on the Confirmation Date. Notwithstanding anything to the contrary in the Plan, the timing of any subsequent distributions made after the Initial Distribution Date to Holders of First Lien Credit Facility Claims or First Lien Notes Claims shall be at the sole discretion of the Disbursing Agent for the distributions to Holders of First Lien Credit Facility Claims and the Disbursing Agent for the distributions to First Lien Notes Claims, respectively, which Disbursing Agents shall be entitled to make, at their respective election, subsequent interim distributions or solely a final distribution once all reserves contemplated in the Plan have been released; provided that such Disbursing Agents shall make such distributions at least semi-annually so long as such Disbursing Agent holds at least \$2,500,000 in Cash to be distributed; provided further that nothing in this paragraph affects any obligation of the Reorganized Debtors to make subsequent distributions to such Disbursing Agents (including as to the timing of any such subsequent distributions).

**V. Record Date for Distributions to Holders of General Unsecured Claims and First Lien Swap Claims.**

103. Except as otherwise provided in the Distribution Election Procedures, the Distribution Record Date applicable to General Unsecured Claims and First Lien Swap Claims shall be the Confirmation Date.

**W. Debtor Release; Third Party Release.**

104. Each of the release provisions as set forth in, among others, Articles IV.BB, IV.CC, VIII.C, and VIII.D of the Plan, (i) is (a) in exchange for good and valuable consideration provided by the Releasees; (b) a good-faith compromise and settlement of the Causes of Action released by the Releasees or Debtors, as applicable; (c) in the best interests of the Debtors and all Holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to any of the Releasing Parties asserting any Cause of Action released by Articles IV.BB, IV.CC, VIII.C, and VIII.D of the Plan against any of the Releasees; (ii) is hereby incorporated in its entirety as if set forth at length, and (iii) shall be immediately effective as of the Effective Date of the Plan, as set forth in and subject to the other provisions of the Plan.

**X. Exculpation.**

105. The exculpation provisions set forth in Article VIII.E of the Plan are essential to the Plan. The record in the Chapter 11 Cases fully supports the exculpation provisions, and the exculpation provisions set forth in Article VIII.E of the Plan are appropriately tailored to protect the Exculpated Parties from inappropriate litigation. The exculpation provisions set forth in Article VIII.E of the Plan are (i) hereby incorporated in their entirety as if set forth at length, and (iii) shall be immediately effective as of the Effective Date of the Plan, as set forth in and subject to the other provisions of the Plan.

**Y. Notice of Entry of Confirmation Order and Occurrence of the Effective Date.**

106. No later than 10 days after the occurrence of the Effective Date, the Debtors shall file with the Court and serve by first class mail or overnight delivery service a notice of the entry of this Confirmation Order and occurrence of the Effective Date, in substantially the form annexed hereto as **Exhibit 3** (the “*Confirmation and Effective Date Notice*”), on each of the

following at their respective addresses last known to the Debtors: (a) the United States Trustee for Region 2; (b) counsel to the Committee; (c) counsel to the First Lien Credit Facility Administrative Agent; (d) the Prepetition Indenture Trustees; (e) counsel to the Ad Hoc First Lien Group; (f) counsel to Apax; (g) the United States Attorney for the Eastern District of New York; (h) the Internal Revenue Service; (i) all parties on the master service list filed with the Court; (j) all persons or entities listed in the Debtors' schedules of assets and liabilities, or any amendments thereto; and (k) any other known Holders of Claims or Interests; provided, that the Confirmation Notice shall not be served upon any person or entity to whom the Debtors have mailed other notices during the Chapter 11 Cases that have been returned as undelivered, unless the Debtors have been informed in writing by such person or entity of that person or entity's new address. Such service shall constitute adequate and sufficient notice pursuant to Bankruptcy Rule 2002(f)(7), 2002(i)-(l) and 3020(c) of the confirmation of the Plan, the entry of this Confirmation Order and occurrence of the Effective Date.

**Z. Cancellation of Liens.**

107. Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, discharged, and compromised and all rights, titles, and interests of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall revert to the Reorganized Debtors and their successors and assigns. The Reorganized Debtors shall be authorized to file

any necessary or desirable documents to evidence such release in the name of such Secured Party.

**AA. Cancellation of Existing Securities and Agreements.**

108. Except to the extent provided in the Plan, including in Article IV.N thereof, any document, agreement, or instrument evidencing any Claim or Equity Interest shall be deemed automatically cancelled and of no force and effect on the Effective Date without further act or action under any applicable agreement, law, regulation, order, or rule and any and all obligations or liabilities of the Debtors under such documents, agreements, or instruments evidencing such Claims and Equity Interests shall be discharged.

**BB. Professional Compensation and Reimbursement Claims.**

109. All entities seeking awards by the Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date and the Effective Date, as applicable, under sections 327, 328, 330, and 331 of the Bankruptcy Code shall (a) file, on or before the date that is 60 days after the Effective Date their respective applications for final allowances of compensation for services rendered and reimbursement of expenses incurred and (b) be paid in full, in Cash, in such amounts as are Allowed by the Court in accordance with the order(s) relating to or allowing any such Professional Claim.

**CC. Return of Deposits.**

110. All utilities, including any Person who received a deposit or other form of “adequate assurance” of performance pursuant to section 366 of the Bankruptcy Code during the Chapter 11 Cases (collectively, the “Deposits”), whether pursuant to the *Order Determining Adequate Assurance of Payment for Future Utility Services* [Docket No. 218] or otherwise, including, gas, electric, telephone, data, cable, trash, and sewer services, are directed to return

such Deposits to the Reorganized Debtors, either by setoff against postpetition indebtedness or by Cash refund, within 30 days following the Effective Date.

**DD. Claims of Worthlessness with Respect to Certain Interests.**

111. For the avoidance of doubt, nothing herein, in the Plan, or in the Bankruptcy Court's *Final Order Establishing Notification and Hearing Procedures for Transfers of, or Claims of Worthlessness with Respect to, Certain Equity Securities and for Related Relief* [Docket No. 152] (the "**WSD Procedures Order**") shall be construed to enjoin (a) any "50% Shareholder" (as defined in the WSD Procedures Order) from (i) filing any federal or state tax return, (ii) filing any amendment to such a return, or (iii) distribute any K-1 or other information statement, if any, to its partners or members, claiming or reflecting any deduction for worthlessness of an Interest in the Debtors, for a tax year ending after the Effective Date, or (b) any partner or owner of such "50% Shareholder" from taking or causing to be taken any such action with respect to a tax year ending after the Effective Date.

**EE. Effect of Confirmation Order on Other Orders.**

112. Unless expressly provided for herein, nothing in the Plan or this Confirmation Order shall affect any orders entered in the Chapter 11 Cases pursuant to section 365 of the Bankruptcy Code or Bankruptcy Rule 9019.

**FF. Specific Provisions.**

113. Notwithstanding anything to the contrary in the Plan, the setoff rights of the California Franchise Tax Board, if any, are preserved and the Debtors and the California Franchise Tax Board will work in good faith to reconcile and resolve setoff rights.

114. Notwithstanding any other term or provision in the Plan (including without limitation Article IV.N of the Plan) or this Confirmation Order, nothing in the Plan or this Confirmation Order (i) will prejudice any of the rights, claims, or defenses of the Debtors, the

Reorganized Debtors, the Debtors' insurers ("*Insurers*"), or the Debtors' sureties ("*Sureties*") under any insurance policies under which Debtors or Reorganized Debtors seek coverage (the "*Policies*"), any surety bonds issued by Sureties at the request of the Debtors (the "*Bonds*"), and any agreements related to the Policies and/or Bonds, including but not limited to agreements of indemnity, guarantees, and letters of credit (together, with the Policies and Bonds, the "*Insurance Agreements*"); (ii) will modify any of the terms, conditions, limitations, and/or exclusions contained in the Insurance Agreements, which shall remain in full force and effect; (iii) shall be deemed to create any insurance coverage that does not otherwise exist, if at all, under the terms of the Insurance Agreements, or create any right of action against the Insurers and/or Sureties that does not otherwise exist under applicable non-bankruptcy law; (iv) shall be deemed to prejudice any of the Insurers' and/or Sureties' rights and/or defenses in any pending or subsequent litigation in which the Insurers, Sureties, Debtors, or Reorganized Debtors may seek any declaration regarding the nature and/or extent of any insurance coverage under the Insurance Agreements; (v) shall be deemed to alter the continuing duties and obligations of any insured, principal, and/or indemnitor under the Insurance Agreements (including the issuer of any letter of credit); or (vi) shall be construed as an acknowledgment that the Insurance Agreements cover or otherwise apply to any claims or that any claims are eligible for payment under any of the Insurance Agreements.

115. No Person shall have Administrative Claims Allowed or paid in the Chapter 11 Cases against the Debtors or their Estates on account of the Management Incentive Plan, the New Management Employment Agreements, or the Separation Agreement and General Release included in Exhibit J to the Plan Supplement.

**GG. Inconsistency.**

116. In the event of any inconsistency between the Plan (including the Plan Supplement) and this Confirmation Order, this Confirmation Order shall govern. To the extent any provision of any final Plan Supplement document may conflict or is inconsistent with any provision in the Plan, the terms of the final Plan Supplement document shall govern and be binding and exclusive.

**HH. Injunctions and Automatic Stay.**

117. Unless otherwise provided in the Plan or in this Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Court, and extant on this Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect through and including the Effective Date. All injunctions or stays contained in the Plan or this Confirmation Order shall remain in full force and effect in accordance with their terms.

**II. Authorization to Consummate.**

118. The Debtors are authorized to consummate the Plan and the Restructuring Transactions at any time after the entry of this Confirmation Order subject to satisfaction or waiver (by the required parties) of the conditions precedent to consummation set forth in Article IX of the Plan.

**JJ. Substantial Consummation.**

119. On the Effective Date of the Plan, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

**KK. No Waiver.**

120. The failure to specifically include any particular Plan Document or provision of the Plan or Plan Document in this Confirmation Order will not diminish the effectiveness of such document or provision nor constitute a waiver thereof, it being the intent of this Court that the Plan is confirmed in their entirety, the Plan Documents are approved in the entirety, and all are incorporated herein by this reference.

**LL. Severability.**

121. Each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is (a) valid and enforceable in accordance with its terms, (b) integral to the Plan and may not be deleted or modified except in accordance with Article X.A of the Plan, and (c) nonseverable and mutually dependent.

**MM. Administrative Claims Bar Date.**

122. Unless otherwise provided by the Plan, this Confirmation Order, any other applicable order of the Bankruptcy Court, or agreed to by the Holder of an Allowed Administrative Claim and the Debtors, all requests for Payment of Administrative Claims must be Filed and served on the Debtors no later than the Administrative Claims Bar Date. Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims that do not File and serve such a request by the Administrative Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors, or their property and such Administrative Claims shall be deemed discharged as of the Effective Date.

**NN. Effect of Non-Occurrence of Effective Date.**

123. If the Effective Date does not occur, then: (a) the Plan shall be null and void in all respects; (b) any settlement, compromise, release, waiver, discharge, and exculpation embodied



in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, the Global Settlement, and any document or agreement executed pursuant to the Plan, shall be deemed null and void and without legal effect; and (c) nothing contained in the Plan or the Disclosure Statement shall: (i) constitute a waiver or release of any Claims or Interests; (ii) prejudice in any manner the rights of the Debtors or any other Person or Entity; or (iii) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtors or any other Person or Entity.

**OO. Debtors' Actions Post-Confirmation Through the Effective Date.**

124. During the period from entry of this Confirmation Order through and until the Effective Date, each of the Debtors shall continue to operate their business as a debtor in possession, subject to the oversight of the Court as provided under the Bankruptcy Code, the Bankruptcy Rules, and this Confirmation Order and any order of the Court that is in full force and effect.

**PP. Conditions to Effective Date**

125. The Plan shall not become effective unless and until the conditions set forth in Article IX.A of the Plan have been satisfied or waived pursuant to Article IX.B. of the Plan.

**QQ. References to Plan Provisions.**

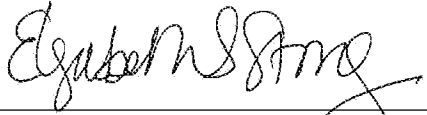
126. The failure specifically to include or to refer to any article, section, or provision in the Plan, Plan Supplement, or any other Plan Document in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision.

**RR. Final Order**

127. This Confirmation Order is a Final Order and the period in which an appeal must be filed shall commence upon the entry hereof.

**Dated: Brooklyn, New York  
March 14, 2014**



  
\_\_\_\_\_  
**Elizabeth S. Stong**  
**United States Bankruptcy Judge**

**Exhibit 1**

**Plan of Reorganization**

**[REDACTED]**

**Exhibit A**

**Management Incentive Plan**

**[REDACTED]**

**Exhibit B**

**Equity Term Sheet**

**[REDACTED]**



**Exhibit C**

**Plan Term Sheet**

**[REDACTED]**

**Exhibit D**

**Rollover Facility Term Sheet**

**[REDACTED]**

**Exhibit E**

**Restructuring Term Sheet**

**[REDACTED]**

**Exhibit F**

**Plan Support Agreement**

**[REDACTED]**