

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM448953

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT
<b>NATURE OF CONVEYANCE:</b>	MERGER
<b>EFFECTIVE DATE:</b>	06/29/2017

## CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
JE Acquisition SUB, Inc		06/29/2017	Corporation: UTAH
Jhana Education		06/29/2017	Corporation: CALIFORNIA

## RECEIVING PARTY DATA

<b>Name:</b>	Franklin Covey Co.
<b>Street Address:</b>	2200 West Parkway Blvd.
<b>Internal Address:</b>	Department of Legal Services
<b>City:</b>	Salt Lake City
<b>State/Country:</b>	UTAH
<b>Postal Code:</b>	84119
<b>Entity Type:</b>	Corporation: UTAH

## PROPERTY NUMBERS Total: 1

Property Type	Number	Word Mark
<b>Serial Number:</b>	87362213	JHANA

## CORRESPONDENCE DATA

Fax Number: 8018175635

*Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.*

Phone: 8018175635

Email: legal@franklincovey.com

Correspondent Name: Franklin Covey Co.

Address Line 1: 2200 West Parkway Blvd.

Address Line 2: Department of Legal Services

Address Line 4: Salt Lake City, UTAH 84119

<b>NAME OF SUBMITTER:</b>	Alissa R. Owen
<b>SIGNATURE:</b>	/Alissa R Owen/
<b>DATE SIGNED:</b>	10/30/2017

## Total Attachments: 6

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AGREEMENT AND PLAN OF MERGER

among

FRANKLIN COVEY CO.,

JE ACQUISITION SUB, INC.,

JHANA EDUCATION,

and

SHAREHOLDER REPRESENTATIVE SERVICES LLC, AS SHAREHOLDER  
REPRESENTATIVE

dated as of

June 29, 2017

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## AGREEMENT AND PLAN OF MERGER

This Agreement and Plan of Merger (this "Agreement"), dated as of June 29, 2017, is entered into among Franklin Covey Co., a Utah corporation ("Parent"), JE Acquisition Sub, Inc., a Utah corporation ("Merger Sub"), Jhana Education, a California corporation (the "Company"), and Shareholder Representative Services LLC, a Colorado limited liability company, solely in its capacity as the representative of the Shareholders (the "Shareholder Representative").

### RECITALS

WHEREAS, the parties intend that Merger Sub be merged with and into the Company, with the Company surviving that merger on the terms and subject to the conditions set forth herein (the "Merger");

WHEREAS, the board of directors of the Company (the "Company Board") has (a) determined that this Agreement and the transactions contemplated hereby, including the Merger, are in the best interests of the Company and its shareholders, (b) approved and declared advisable this Agreement and the transactions contemplated hereby, including the Merger, and (c) resolved to recommend adoption of this Agreement by the shareholders of the Company in accordance with the California Corporations Code (the "CCC");

WHEREAS, following the execution of this Agreement, the Company shall seek to obtain, in accordance with Sections 152 and 1103 of the CCC, the approval of its shareholders of this Agreement, the Merger and the transactions contemplated hereby; and

WHEREAS, in accordance with Part 11 of the Utah Revised Business Corporation Act (the "Utah Act" and, together with the CCC, the "Merger Statutes"), the board of directors of Merger Sub has and, pursuant to Section 8.02(d), the board of directors of Parent will have prior to the Closing, (a) determined that this Agreement and the transactions contemplated hereby, including the Merger, are in the best interests of Parent, Merger Sub and their respective shareholders, and (b) approved and declared advisable this Agreement and the transactions contemplated hereby, including the Merger; and

WHEREAS, a portion of the cash otherwise payable by Parent to the Shareholders in connection with the Merger shall be held back by Parent, the release of which shall be contingent upon certain conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I DEFINITIONS

The following terms have the meanings specified or referred to in this Article I:

"AAA" has the meaning set forth in Section 10.11(b).

(iii) easements, rights of way, zoning ordinances and other similar encumbrances affecting Real Property which are not, individually or in the aggregate, material to the business of the Company; or

(iv) other than with respect to owned Real Property, liens arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business consistent with past practice which are not, individually or in the aggregate, material to the business of the Company.

(b) With respect to owned Real Property, the Company has delivered or made available to Parent true, complete and correct copies of the deeds and other instruments (as recorded) by which the Company acquired such Real Property, and copies of all title insurance policies, opinions, abstracts and surveys in the possession of the Company and relating to the Real Property. With respect to leased Real Property, the Company has delivered or made available to Parent true, complete and correct copies of any leases affecting the Real Property. The Company is not a sublessor or grantor under any sublease or other instrument granting to any other Person any right to the possession, lease, occupancy or enjoyment of any leased Real Property. To the Company's Knowledge, the use and operation of the Real Property in the conduct of the Company's business do not violate in any material respect any Law, covenant, condition, restriction, easement, license, permit or agreement. There are no Actions pending nor, to the Company's Knowledge, threatened against or affecting the Real Property or any portion thereof or interest therein in the nature or in lieu of condemnation or eminent domain proceedings.

**Section 3.11 Condition and Sufficiency of Assets.** The buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property of the Company are structurally sound, are in good operating condition and repair, and are reasonably adequate for the uses to which they are being put, and none of such buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property is in need of maintenance or repairs except for ordinary, routine maintenance and repairs that are not material in nature or cost. The buildings, plants, structures, furniture, fixtures, machinery, equipment, vehicles and other items of tangible personal property currently owned or leased by the Company, together with all other properties and assets of the Company, are reasonably sufficient for the continued conduct of the Company's business after the Closing in substantially the same manner as conducted prior to the Closing and constitute all of the rights, property and assets reasonably necessary to conduct the business of the Company as currently conducted.

#### **Section 3.12 Intellectual Property.**

(a) **Section 3.12(a)** of the Disclosure Schedules lists all registered and unregistered Company Intellectual Property that is material to the Company's business or operations, excluding off-the-shelf commercially available software. All required filings and fees related to the Company IP Registrations have been timely filed with and paid to the relevant Governmental Authorities and authorized registrars, and all Company IP Registrations are otherwise in good standing. The Company has provided Parent with true and complete copies of file histories,

documents, certificates, office actions, correspondence and other materials related to all Company IP Registrations.

(b) Section 3.12(b) of the Disclosure Schedules lists all Company IP Agreements, other than those on the Company's standard form of confidential information and invention assignment agreements executed with all employees and consultants and the content release agreements which have been provided to Parent. The Company has provided Parent with true and complete copies of all such Company IP Agreements, including all material modifications, amendments and supplements thereto and waivers thereunder, and absent what has been provided to Parent, there are no other agreements related to the Company's Intellectual Property or a third-party's Intellectual Property. Each Company IP Agreement is valid and binding on the Company in accordance with its terms and is in full force and effect. Neither the Company nor to the Company's Knowledge any other party thereto is in breach of or default under (or is alleged to be in breach of or default under), or has provided or received any notice of breach or default of or any intention to terminate, any Company IP Agreement.

(c) The Company is the sole and exclusive legal and beneficial, and with respect to the Company IP Registrations, record, owner of all right, title and interest in and to the Company Intellectual Property, and has the valid right to use all other Intellectual Property used in or reasonably and materially necessary for the conduct of the Company's current business or operations, in each case, free and clear of Encumbrances other than Permitted Encumbrances. Without limiting the generality of the foregoing, the Company has entered into binding, written agreements with every current and former employee, and with every current and former independent contractor, whereby such employees and independent contractors (i) assign to the Company any ownership interest and right they may have in the Company Intellectual Property; and (ii) acknowledge the Company's exclusive ownership of all Company Intellectual Property. The Company has provided Parent with true and complete copies of all such agreements.

(d) The consummation of the transactions contemplated hereunder will not result in the loss or impairment of or payment of any additional amounts with respect to, nor require the consent of any other Person in respect of, the Company's right to own, use or hold for use any Intellectual Property that is reasonably and materially needed for the Company's business, as owned, used or held for use in the conduct of the Company's business or operations as currently conducted.

(e) The Company's rights in the Company Intellectual Property are valid, subsisting and enforceable. The Company has taken all reasonable steps to maintain the Company Intellectual Property and to protect and preserve the confidentiality of all trade secrets included in the Company Intellectual Property, including requiring all Persons having access thereto to execute written non-disclosure agreements.

(f) The conduct of the Company's business as currently and formerly conducted, and the products, processes and services of the Company, have not infringed, misappropriated, diluted or otherwise violated, and do not and will not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any Person. To the Company's Knowledge, no Person has infringed, misappropriated, diluted or otherwise violated, or is

JHANA EDUCATION  
COMPANY DISCLOSURE SCHEDULES

June 29, 2017

The Company Disclosure Schedules (the "*Company Disclosure Schedules*") are being delivered by Jhana Education, a California corporation (the "*Company*") pursuant to that certain Agreement and Plan of Merger dated as of June 29, 2017 (the "*Agreement*"), by and among the Company, Franklin Covey Co., a Utah corporation ("*Acquirer*"), JE Acquisition Sub, Inc., a Utah corporation and a wholly owned subsidiary of Acquirer ("*Merger Sub*") and Shareholder Representative Services LLC as the Shareholder Representative (the "*Shareholder Representative*"). Acquirer, Company, Merger Sub and the Shareholder Representative are referred to herein as the "*Parties*" or individually as a "*Party*." Defined terms in these Company Disclosure Schedules shall have the meanings set forth in the Agreement, unless otherwise defined herein.

The sections and subsections referenced herein refer to the corresponding sections and subsections of the Agreement. The exceptions or disclosures set forth in these Company Disclosure Schedules correspond to the corresponding sections and subsections of the Agreement but shall apply to any other section and subsection of Article 2 of the Agreement only to the extent the relevance to other representations and warranties is reasonably apparent from reading the actual text of the disclosures without any reference to extrinsic documentation or any independent knowledge on the part of the reader regarding the matter disclosed.

Matters, items and documents set forth in these Company Disclosure Schedules are not necessarily limited to matters, items and documents required by the Agreement to be reflected in these Company Disclosure Schedules. Matters, items and documents set forth in these Company Disclosure Schedules in response to representations and warranties in the Agreement that are qualified by "materiality," "Material Adverse Effect" or similar qualifications are not necessarily material. Accordingly, no reference to or disclosure of any matter, item or document in these Company Disclosure Schedules shall: (i) be construed as an admission or indication that such matter, item or document is material, that such matter, item or document has had, or would reasonably be expected to result in, a material adverse effect, or that such matter, item or document is required to be referred to or disclosed herein; or (ii) otherwise establish a standard of materiality. Disclosures in these Company Disclosure Schedules of any allegations with respect to any alleged failure to perform, or breach or default of a contractual or other duty or obligation, or breach or violation of any law or order, will not be deemed an admission to any party that such fact exists or has in fact occurred. Company and the Shareholder Representative do not assume any responsibility to any party other than Acquirer or an Indemnified Person for the form or accuracy of the information contained herein.

These Company Disclosure Schedules and the disclosures and information contained in these Company Disclosure Schedules are disclosed solely for the purposes of the Agreement and shall not be used for any purpose other than the purposes contemplated by the Agreement.

Descriptions or terms of agreements or documents contained in these Company Disclosure Schedules are summaries only and are qualified in their entirety by the specific terms of such agreements or documents. The headings contained in these Company Disclosure Schedules are included for convenience only, and are not intended to limit the effect of the disclosures contained in these Company Disclosure Schedules or to expand the scope of the information required to be disclosed in these Company Disclosure Schedules.

THE INFORMATION CONTAINED HEREIN IS STRICTLY CONFIDENTIAL AND IS IN ALL EVENTS SUBJECT TO THE MUTUAL NON-DISCLOSURE AGREEMENT DATED AS OF JUNE 2, 2017 BETWEEN COMPANY AND ACQUIRER. Company and the Shareholder

to seek indemnification under Section 7.02(f) of the Agreement to the extent described therein.

**Section 3.10 Title to Assets; Real Property.**

(a)

- See Comerica Loan.
- See Subordination Agreement.
- California is a Community Property State.

**Section 3.12 Intellectual Property**

(a)

- Service Mark filed March 7, 2017 for the Company, Serial Number 87362213.
- The Company's unregistered IP includes without limitation the following:
  - The Company's website
  - All content on the Company's website and provided through its product offerings, as well as any written content provided to users in connection with the use of the Company's products outside of the website.
  - All Contracts
  - All marketing materials
  - All trade secrets
  - All customer and client lists

(b)

- The Trend Media Agreement.
- Non-Disclosure Agreement, dated September 24, 2014 by and between the Company and VMware, Inc.
- Non-Disclosure Agreement, dated October 27, 2015 by and between the Company and Alexander O'Connor.
- Mutual Non-Disclosure Agreement, dated As Of June 2, 2017 by and between the Company and the Parent.
- Technology Transfer Agreement, dated April 4, 2014 by and between John Howard and the Company.
- Technology Transfer Agreement, dated April 4, 2014 by and between Rob Cahill and the Company.
- Domain Name Purchase Agreement, dated August 20, 2015, by and between the Company and John Holmes
- Reference is made to the Company's Terms of Use and Privacy Policy, copies of which have been made available to the Buyer.

(c)

- The following employees have not executed a CIAA Agreements with the Company: