

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**ECC EDUCATION CONSOLIDATION CORPORATION**

Applicant

and

**WCI WESTERVELT COLLEGE INC.**

Respondents

**APPLICATION PURSUANT TO SECTION 101 OF THE *COURTS OF JUSTICE ACT*,  
R.S.O. 1990, c. C.43, AS AMENDED**

**APPLICATION RECORD**

July 31, 2017

**AIRD & BERLIS LLP**

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*Lawyers for ECC Education Consolidation  
Corporation and WCI Westervelt College Inc.*

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# **Tab 1**

Court File No. CV-17- 579922 -00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**ECC EDUCATION CONSOLIDATION CORPORATION**

Applicant

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**APPLICATION PURSUANT TO SECTION 101 OF THE *COURTS OF JUSTICE ACT*,  
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**NOTICE OF APPLICATION**

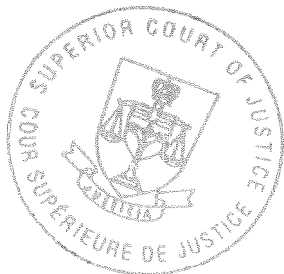
**TO THE RESPONDENT**

**A LEGAL PROCEEDING HAS BEEN COMMENCED** by the applicant. The claim made by the applicant appears on the following page.

**THIS APPLICATION** will come on for a hearing before a judge presiding over the Commercial List at 330 University Avenue, Toronto, Ontario, on Wednesday, August 2, 2017, at 10:00 a.m. or as soon after that time as the matter may be heard, in respect of the appointment of an interim receiver, and then for a second hearing on a date and at a time to be set by the Court, in respect of the appointment of a receiver.

**IF YOU WISH TO OPPOSE THIS APPLICATION**, to receive notice of any step in the application or to be served with any documents in the application you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

**IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION**, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, whether the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least two days before the hearing.



**IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.**

Date: July 31, 2017

Issued by: \_\_\_\_\_

  
Local Registrar

Address of court office: 330 University Avenue  
7<sup>th</sup> Floor  
Toronto, ON M5G 1R7

**TO: ALL THE PARTIES ON THE ATTACHED SERVICE LIST**

## APPLICATION

1. **THE APPLICANT, ECC EDUCATION CONSOLIDATION CORPORATION (“ECC”), MAKES AN APPLICATION FOR:**

- (a) an Order (the “**Receivership Order**”) pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), appointing Richter Advisory Group Inc. (“**Richter**”) as receiver, without security (in such capacity, the “**Receiver**”), over all of the assets, undertaking and property of WCI Westervelt College Inc. (“**WCI**”);
- (b) an Order (the “**Approval and Vesting Order**”) pursuant to section 100 of the CJA:
  - (i) approving an asset purchase agreement (the “**Purchase Agreement**”) dated July 26, 2017 between WCI, as vendor, and EFC Trade Inc. (the “**Purchaser**”), and authorizing the Receiver to complete the transaction contemplated thereby (the “**Transaction**”); and
  - (ii) vesting in the Purchaser all of WCI’s right, title and interest in and to the assets described in the Purchase Agreement, free and clear of any claims and encumbrances subject to certain exceptions; and
- (c) such further and other relief as is just.

2. **THE GROUNDS FOR THE APPLICATION ARE:**

- (a) WCI operates the Westervelt College private career college business in London, Ontario (the “**College**”), which business has been operating at a financial loss since WCI was purchased by a subsidiary of ECC in February, 2012;
- (b) during that time, WCI has continued to operate only with significant advances of cash from ECC;
- (c) as at June 30, 2017, WCI was indebted to ECC in the amount of \$2,789,569;
- (d) as well, in December, 2015, ECC subscribed for new preferred shares of WCI and WCI used the proceeds to pay down an additional \$8.5 million in debt owed to ECC;
- (e) ECC has been marketing the College for sale since November, 2015, and the Transaction with the Purchaser is the result of those efforts;

- (f) The pool of potential purchasers was very limited due to: (a) the condition of WCI's business; (b) adverse market conditions in the private career college sector; and (c) the need for regulatory approval of any purchaser;
- (g) Richter considers the steps taken to market WCI and/or the College to be reasonable;
- (h) in order to allow the College's current students to complete their programs in an orderly fashion, ECC is, effectively, paying the Purchaser to assume responsibility for operating the College;
- (i) the Purchaser has obtained the necessary regulatory approval to operate the College post-closing of the Transaction;
- (j) WCI's two secured creditors have consented to the Transaction and to the Approval and Vesting Order;
- (k) WCI is insolvent and unable to fulfill all its obligations to ECC and other stakeholders;
- (l) ECC will not fund the College's operations any further if the Transaction is not approved or if closing of the Transaction is delayed past August 15, 2017;
- (m) the granting of the Receivership Order and the granting of the Approval and Vesting Order are conditions to closing of the Transaction in the Purchase Agreement;
- (n) the form of Receivership Order sought would give the Receiver the relatively limited powers necessary to complete the Transaction, while WCI will remain in possession and control of the College until the closing of the Transaction;
- (o) in the circumstances, it is just and equitable that a receiver be appointed;
- (p) Richter is a licensed trustee in bankruptcy, is familiar with the private career college industry and has consented to act as Receiver should the Court so appoint it;
- (q) the other grounds set out in the affidavit of John Koehn, sworn July 31, 2017 (the "**Koehn Affidavit**");
- (r) sections 100 and 101 of the CJA;

- (s) rules 1.04, 2.01, 2.03, 3.02 and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- (t) such further grounds as are required and this Court may permit.

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

- (a) the Koehn Affidavit and all the exhibits attached thereto;
- (b) the pre-appointment report of Richter, to be filed;
- (c) the consent of Richter to act as the Receiver; and
- (d) such other material as is required and this Court may permit.

Date of Issue: July 31, 2017

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*Lawyers for ECC Education Consolidation  
Corporation and WCI Westervelt College Inc.*

Applicant

Respondent

Court File No. CV-17-579972 -00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
**PROCEEDING COMMENCED AT TORONTO**

**NOTICE OF APPLICATION**

**AIRD & BERLIS LLP**  
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*Lawyers for ECC Education Consolidation Corporation and  
WCI Westervelt College Inc.*

## **Tab 1(a)**



Court File No.

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

THE HONOURABLE	)	WEEKDAY, THE #
	)	
JUSTICE	)	DAY OF JULY, 2017

**ECC EDUCATION CONSOLIDATION CORPORATION**

Applicant

- and -

**WCI WESTERVELT COLLEGE INC.**

Respondent

**ORDER**  
**(appointing Receiver)**

**THIS APPLICATION** made by the ECC Education Consolidation Corporation (the “**Applicant**”) for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”) appointing Richter Advisory Group Inc. (“**Richter**”) as receiver (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of WCI Westervelt College Inc. (the “**Debtor**”) acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the “**Property**”), for purposes of consummating a transaction for the sale of substantially all the Property, was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of John Koehn sworn July 31, 2017 and the Exhibits thereto, on reading the pre-appointment report of Richter, dated <\*>, 2017, and on hearing the submissions of counsel for the Applicant and the Debtor, counsel for Richter and counsel for the

Purchaser, no one else appearing for although duly served as appears from the affidavit of service of <\*> sworn <\*>, 2017 and on reading the consent of Richter to act as the Receiver,

### **SERVICE**

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

### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 101 of the CJA, Richter is hereby appointed Receiver, without security, of all of the Property.

### **RECEIVER'S POWERS**

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (b) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (c) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby

conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (d) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (e) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business with the approval of the Court, and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required.
- (f) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (g) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (h) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (i) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (j) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor; and

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- (k) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), except the Debtor, and without interference from any other Person except the Debtor.

4. **THIS COURT ORDERS AND DECLARES** that:

- (a) the Receiver shall not take possession or control, nor shall it be deemed to have taken possession or control, of the Debtor's business or the Property;
- (b) the Receiver shall not be and shall not be deemed to be a receiver for purposes of subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"); and
- (c) the appointment of the Receiver shall not be and shall not be deemed to be a change of control of the Debtor.

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in

that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

## **NO PROCEEDINGS AGAINST THE RECEIVER**

9. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

## **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

10. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court. Notwithstanding the forgoing, the Debtor may, at any time and without leave of this Court or written consent of the Receiver, make an assignment in bankruptcy if its directors or shareholder deem it necessary or desirable to do so.

## **NO EXERCISE OF RIGHTS OR REMEDIES**

11. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any “eligible financial contract” as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) affect any investigation by the Superintendent of Private Career Colleges (the “**Superintendent**”) in respect of the Debtor or an action, suit or proceeding that is taken in respect of the Debtor by or before the Superintendent, other than the enforcement of a payment ordered by the Superintendent or the Court, (iii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety, the environment or under the *Private Career Colleges Act, 2005* SO 2005, c 28 and Regulations thereunder, (iv) prevent the filing of any registration to preserve or perfect a security interest, or (v) prevent the registration of a claim for lien.

## **NO INTERFERENCE WITH THE RECEIVER OR DEBTOR**

12. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

## **CONTINUATION OF SERVICES**

13. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

## **RECEIVER TO HOLD FUNDS**

14. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

15. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Debtor or the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations, if any, under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## **PIPEDA**

16. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

17. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or



relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

### **LIMITATION ON THE RECEIVER'S LIABILITY**

18. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations, if any, under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from any protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

19. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the “**Receiver's Charge**”) on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, if applicable.

20. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

22. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver's Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, if applicable.

23. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule “A”** hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

25. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

## SERVICE AND NOTICE

26. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “Protocol”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘www.richter.ca/en/folder/insolvency-cases/w/<\*>’.

27. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

28. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Debtors’ creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

**GENERAL**

29. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

30. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

32. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

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34. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

---

**SCHEDULE "A"**

**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. **THIS IS TO CERTIFY** that Richter Advisory Group Inc., the receiver (the “**Receiver**”) of the assets, undertakings and properties WCI Westervelt College Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the “**Property**”) appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated the 2<sup>nd</sup> day of August, 2017 (the “**Order**”) made in an application having Court file number CV-17-[\*]-00CL, has received as such Receiver from the holder of this certificate (the “**Lender**”) the principal sum of \$[\*], being part of the total principal sum of \$[\*] which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the [\*] day of each month] after the date hereof at a notional rate per annum equal to the rate of [\*] per cent above the prime commercial lending rate of Bank of [\*] from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the <\*> day of <\*>, 2017

**RICHTER ADVISORY GROUP INC.**, solely  
in its capacity as Receiver of WCI Westervelt  
College Inc., and not in its personal capacity

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

Name:

Title:

**Tab 1(b)**



Court File No. CV-17-\_\_\_\_-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	WEDNESDAY, THE 2 <sup>ND</sup>
	)	
JUSTICE	)	DAY OF AUGUST, 2017

BETWEEN:

**ECC EDUCATION CONSOLIDATION CORPORATION**

Applicant

- and -

**DEFENDANT**

Respondent

**APPROVAL AND VESTING ORDER**

**THIS APPLICATION**, made by ECC Education Consolidation Corporation (“**ECC**”) for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Sale Agreement**”) between WCI Westerville College Inc. (the “**Debtor**”) and EFC Trade Inc. (the “**Purchaser**”), dated the 26<sup>th</sup> day of July, 2017 and appended to the Affidavit of John Koehn, sworn 31<sup>st</sup> day of July, 2017 (the “**Koehn Affidavit**”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Koehn Affidavit, on reading the report of Richter Advisory Group Inc. in its capacity as intended receiver of the undertaking, property and assets of the Debtor (in such capacity, the “**Receiver**”) and on hearing the submissions of counsel for ECC and the Debtor, counsel for the Purchaser and counsel for the Receiver, no one appearing for any other

person on the service list, although properly served as appears from the affidavit of <\*> sworn the <\*> day of <\*>, 2017 filed:

1. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver and Purchaser's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Receiver's Certificate**"), all of the Debtor's right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice <\*> dated August 2, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule B** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule C**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

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

6. **THIS COURT ORDERS** that, notwithstanding:

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

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

---

**Schedule A  
Form of Receiver's Certificate**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**ECC EDUCATION CONSOLIDATION CORPORATION**

Applicant

- and -

**WCI WESTERVELT COLLEGE INC.**

Respondent

**CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable <\*> of the Ontario Superior Court of Justice (the “**Court**”) dated August 2, 2017, Richter Advisory Group Inc. was appointed as the receiver (the “**Receiver**”) of the undertaking, property and assets of WCI Westervelt College Inc. (the “**Debtor**”).

B. Pursuant to an Order of the Court dated August 2, 2017, the Court approved the agreement of purchase and sale made as of July 26, 2107 (the “**Sale Agreement**”) between the Debtor and EFC Trade Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 11 of the Sale

Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE RECEIVER AND THE PURCHASER EACH CERTIFY** the following:

1. The Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement has been paid.
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser.
3. The Transaction has been completed to the satisfaction of the Receiver and the Purchaser.

This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**RICHTER ADVISORY GROUP INC.,**  
solely in its capacity as the proposed Court  
appointed Receiver of WCI Westerville  
College Inc. and not in any other capacity  
and with no personal or corporate liability

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

Name:

Title:

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

Name:

Title:

I/We have the authority to bind Richter  
Advisory Group Inc.

This Certificate was delivered by the Purchaser at \_\_\_\_\_ on August \_\_\_\_\_, 2017

**EFT TRADE INC.**

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

Name:

Title:

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

Name:

Title:

I/We have the authority to bind the  
corporation

**Schedule B**  
**Specific Claims to be deleted and expunged as against**  
**WCI Westervelt College Inc.**

**1. 20140120 1804 1532 5105**

**PPSA File No. 693264879**

Regn. Length: 5 years

Debtor: WCI Westervelt College Inc

265 Notre Dame Avenue, Winnipeg, MB R3B 1N9

**Secured: Royal Bank of Canada**

220 Portage Avenue 2<sup>nd</sup> Floor, Winnipeg, MB R3C 0A5

Collateral: Inventory, Equipment, Accounts, Other, Motor Vehicle

General

Collateral

Description: The secured interest is taken in all of the debtor's present and after-acquired personal property.

**2. 20150923 1319 1862 8185**

**PPSA File No. 710196984**

Regn. Length: 4 years

Debtor: 1. ECC Education Consolidation Corporation

Suite 1300, 433 Main Street, Winnipeg, MB R3B 1B3

2. RCI Robertson College Inc.

Suite 1300, 433 Main Street, Winnipeg, MB R3B 1B3

3. WCI Westervelt College Inc.

1060 Wellington Street, London, ON N6E 3W5

**Secured: FWCU Capital Corp.**

6470 201 Street, Langley, BC V2Y 2X4

Collateral: Inventory, Equipment, Accounts, Other, Motor Vehicle



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

**(unaffected by the Approval and Vesting Order)**

- NIL -

30038961.1

## **Tab 2**

Revised: January 21, 2014  
~~s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver~~

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

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

THE HONOURABLE \_\_\_\_\_ ) ~~WEEKDAY~~WEEKDAY, THE ##  
 JUSTICE \_\_\_\_\_ )  
 DAY OF ~~MONTH~~JULY, ~~20YR~~2017

**~~PLAINTIFF~~<sup>1</sup>**

**~~Plaintiff~~**

ECC EDUCATION CONSOLIDATION CORPORATION

Applicant

- and -

**~~DEFENDANT~~**

**~~Defendant~~**

WCI WESTERVELT COLLEGE INC.

Respondent

**ORDER**  
**(appointing Receiver)**

THIS ~~MOTION~~APPLICATION made by the ~~Plaintiff~~<sup>2</sup>ECC Education Consolidation Corporation (the "Applicant") for an Order pursuant to section ~~243(1) of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the "BIA") and section~~ 101 of the *Courts of*

<sup>1</sup> The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.

<sup>2</sup> Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".

*Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing ~~[RECEIVER'S NAME]~~Richter Advisory Group Inc. ("Richter") as receiver ~~[and manager]~~ (in such ~~capacities~~capacity, the "Receiver") without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~WCI Westervelt College Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property"). for purposes of consummating a transaction for the sale of substantially all the Property. was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of ~~[NAME]~~John Koehn sworn ~~[DATE]~~July 31, 2017 and the Exhibits thereto, on reading the pre-appointment report of Richter, dated <\*>, 2017, and on hearing the submissions of counsel for ~~[NAMES], no one~~the Applicant and the Debtor, counsel for Richter and counsel for the Purchaser, no one else appearing for ~~[NAME]~~ although duly served as appears from the affidavit of service of ~~[NAME]~~ ~~<\*>~~ sworn ~~[DATE]~~ ~~<\*>~~, 2017 and on reading the consent of ~~[RECEIVER'S NAME]~~Richter to act as the Receiver,

## SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of ~~Motion~~Application and the ~~Motion~~Application is hereby abridged and validated<sup>3</sup> so that this ~~motion~~application is properly returnable today and hereby dispenses with further service thereof.

## APPOINTMENT

2. **THIS COURT ORDERS** that pursuant to ~~section 243(1) of the BIA and~~ section 101 of the CJA, ~~[RECEIVER'S NAME]~~Richter is hereby appointed Receiver, without security, of all of the ~~assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "Property")~~Property.

## RECEIVER'S POWERS

3. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality

<sup>3</sup> If service is effected in a manner other than as authorized by the *Ontario Rules of Civil Procedure*, an order validating irregular service is required pursuant to Rule 16.08 of the *Rules of Civil Procedure* and may be granted in appropriate circumstances.

of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- ~~(a) — to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;~~
- ~~(b) — to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;~~
- ~~(c) — to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;~~
- (a) ~~(d)~~ — to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- ~~(e) — to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;~~
- ~~(f) — to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;~~
- ~~(g) — to settle, extend or compromise any indebtedness owing to the Debtor;~~

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- (b) ~~(h)~~ to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (c) ~~(i)~~ to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings.<sup>4</sup> The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (d) ~~(j)~~ to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (e) ~~(k)~~ to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business;
- ~~(i) without the approval of this Court in respect of any transaction not exceeding \$\_\_\_\_\_, provided that the aggregate consideration for all such transactions does not exceed \$\_\_\_\_\_; and (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause; the Court,~~
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, ~~[or section 31 of the Ontario~~

<sup>4</sup> ~~This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

~~*Mortgages Act, as the case may be,*<sup>5</sup> shall not be required, and in each case the Ontario Bulk Sales Act shall not apply.~~

- (f) ~~(f)~~ to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (g) ~~(m)~~ to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (h) ~~(n)~~ to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (i) ~~(o)~~ to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (j) ~~(p)~~ to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor; ~~(q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;~~ and
- (k) ~~(r)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including except the Debtor, and without interference from any other Person except the Debtor.

<sup>5</sup> ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

4. THIS COURT ORDERS AND DECLARES that:

- (a) the Receiver shall not take possession or control, nor shall it be deemed to have taken possession or control, of the Debtor's business or the Property;
- (b) the Receiver shall not be and shall not be deemed to be a receiver for purposes of subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA"); and
- (c) the appointment of the Receiver shall not be and shall not be deemed to be a change of control of the Debtor.

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. ~~4.~~ **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons") and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. ~~5.~~ **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph ~~5~~6 or in paragraph ~~6~~7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the



Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. ~~6.~~ **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

8. ~~7.~~ **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

## NO PROCEEDINGS AGAINST THE RECEIVER

9. ~~8.~~ **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

## NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

10. ~~9.~~ **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court. Notwithstanding the forgoing, the Debtor may, at any time and without leave of this Court or written consent of the Receiver, make an assignment in bankruptcy if its directors or shareholder deem it necessary or desirable to do so.

## NO EXERCISE OF RIGHTS OR REMEDIES

11. ~~10.~~ **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) affect any investigation by the Superintendent of Private Career Colleges (the "Superintendent") in respect of the Debtor or an action, suit or proceeding that is taken in respect of the Debtor by or before the Superintendent, other than the enforcement of a payment ordered by the Superintendent or the Court, (iii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety ~~or~~ the environment, ~~(iii) or under the Private Career Colleges Act, 2005 SO 2005, c 28 and Regulations thereunder,~~ (iv) prevent the filing of any registration to preserve or perfect a security interest, or ~~(iv)~~ prevent the registration of a claim for lien.

## **NO INTERFERENCE WITH THE RECEIVER OR DEBTOR**

12. ~~11.~~ **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

## **CONTINUATION OF SERVICES**

13. ~~12.~~ **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

## **RECEIVER TO HOLD FUNDS**

14. ~~13.~~ **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the ~~"~~**Post Receivership Accounts**~~"~~) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## EMPLOYEES

15. ~~14.~~ **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Debtor or the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations, if any, under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

## PIPEDA

16. ~~15.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a ~~"Sale"~~ "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## LIMITATION ON ENVIRONMENTAL LIABILITIES

17. ~~16.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, ~~"Possession"~~ "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the

disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

### **LIMITATION ON THE RECEIVER'S LIABILITY**

18. ~~17.~~ **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations, if any, under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from ~~the~~any protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

### **RECEIVER'S ACCOUNTS**

19. ~~18.~~ **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "Receiver's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, if applicable.<sup>6</sup>

20. ~~19.~~ **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal

<sup>6</sup> ~~Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

21. ~~20.~~ **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **FUNDING OF THE RECEIVERSHIP**

22. ~~21.~~ **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$~~\_\_\_\_\_~~250,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the ~~"Receiver's Borrowings Charge"~~) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA, if applicable.

23. ~~22.~~ **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

24. ~~23.~~ **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule ~~"A"~~** hereto (the ~~"Receiver's Certificates"~~) for any amount borrowed by it pursuant to this Order.

25. ~~24.~~ **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

## **SERVICE AND NOTICE**

26. ~~25.~~ **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol> <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '[@www.richter.ca/en/folder/insolvency-cases/w/<\\*>](http://www.richter.ca/en/folder/insolvency-cases/w/<*>)'.

27. ~~26.~~ **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

28. **THIS COURT ORDERS** that the Applicant, the Receiver and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by

forwarding true copies thereof by electronic message to the Debtors' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

## GENERAL

29. ~~27.~~ **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

30. ~~28.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

31. ~~29.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

32. ~~30.~~ **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

33. ~~31.~~ **THIS COURT ORDERS** that the ~~Plaintiff~~Applicant shall have its costs of this ~~motion~~application, up to and including entry and service of this Order, ~~provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then~~ on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.



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34. ~~32.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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## SCHEDULE "A"

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. **THIS IS TO CERTIFY** that ~~[RECEIVER'S NAME]~~ Richter Advisory Group Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ WCI Westervelt College Inc. acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 2<sup>nd</sup> day of 20<sup>th</sup> August, 2017 (the "**Order**") made in an ~~action~~ application having Court file number CL CV-17-~~CL~~-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ ~~CL~~, being part of the total principal sum of \$ ~~CL~~ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the ~~CL~~ day of each month] after the date hereof at a notional rate per annum equal to the rate of ~~CL~~ per cent above the prime commercial lending rate of Bank of ~~CL~~ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

- 2 -

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the            day of           , 20          , 2017

~~[RECEIVER'S NAME]~~ **RICHTER ADVISORY GROUP INC.**, solely in its capacity as Receiver of ~~the Property~~ **WCI Westervelt College Inc.**, and not in its personal capacity

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

~~29517846.1~~  
29933272.2

Document comparison by Workshare Compare on July-31-17 12:10:31 PM

Input:	
Document 1 ID	interwovenSite://AB-WS1/CM/29517846/1
Description	#29517846v1<CM> - Model receivership-order-EN (2)
Document 2 ID	interwovenSite://AB-WS1/CM/29933272/2
Description	#29933272v2<CM> - Tab 1(a) - WCI CJA Receivership Order
Rendering set	Standard

Legend:	
<u>Insertion</u>	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	114
Deletions	170
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	286

## **Tab 3**

~~[MODEL APPROVAL AND VESTING ORDER] (May 11, 2010)~~ Court File No. ~~<\*>~~ CV-17-~~<\*>~~-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE ) ~~<\*>~~ WEDNESDAY, THE ~~<\*>~~ 2<sup>ND</sup>  
JUSTICE ) DAY OF AUGUST, 2017  
)

JUSTICE ~~<\*>~~ ) OF ~~<\*>~~, 20~~<\*>~~

~~BETWEEN:~~

~~<NAME OF PLAINTIFF>~~

**Plaintiff**

BETWEEN:

ECC EDUCATION CONSOLIDATION CORPORATION

Applicant

- and -

~~<NAME OF>~~ DEFENDANT

**Defendant**

Respondent

**APPROVAL AND VESTING ORDER**

**THIS** ~~MOTION, made by <receiver> in its capacity as the Court-appointed receiver (the~~  
~~“Receiver”) of the undertaking, property and assets of <debtor> (the “Debtor”~~ APPLICATION,  
made by ECC Education Consolidation Corporation (“ECC”) for an order approving the sale  
transaction (the **“Transaction”**) contemplated by an asset purchase agreement ~~of purchase and~~

~~-2-~~

~~sale~~ (the “Sale Agreement”) between ~~the Receiver and~~ ~~<name of purchaser>~~ WCI Westerville College Inc. (the “Debtor”) and EFC Trade Inc. (the “Purchaser”), dated ~~<\*>, 20<\*>~~ the 26<sup>th</sup> day of July, 2017 and appended to the ~~Report of the Receiver dated~~ ~~<\*>, 20<\*>~~ (the ~~“Report~~ Affidavit of John Koehn, sworn 31<sup>st</sup> day of July, 2017 (the “Koehn Affidavit”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “Purchased Assets”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the ~~Report~~ Koehn Affidavit, on reading the report of Richter Advisory Group Inc. in its capacity as intended receiver of the undertaking, property and assets of the Debtor (in such capacity, the “Receiver”) and on hearing the submissions of counsel for ECC and the Debtor, counsel for the Purchaser and counsel for the Receiver, ~~<name of other parties appearing>~~, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~<name\*>~~ sworn the <\*> day of <\*>, 20<\*> 2017 filed<sup>1</sup>:1.

~~—THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved<sup>2</sup>, and the execution of the Sale Agreement by the Receiver<sup>3</sup>~~

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby ~~authorized and approved, with such minor amendments as the Receiver may deem necessary. The~~ and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

1. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver and Purchaser’s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “Receiver’s Certificate”), all of the Debtor’s right, title and interest in and to the Purchased

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

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

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

~~3~~

Assets described in the Sale Agreement ~~[and listed on Schedule B hereto]~~<sup>4</sup> shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~<name>~~ dated ~~<\*>~~, 20~~<\*>~~ August 2, 2017; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule ~~C~~B** hereto (all of which are collectively referred to as the “Encumbrances”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule ~~D~~C**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

~~3. — THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of <location> of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of <location> of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]<sup>6</sup>, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the “Real Property”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

2. **4. THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from the sale of the Purchased Assets shall stand in the place and

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

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

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

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



~~4~~

stead of the Purchased Assets, and that from and after the delivery of the Receiver's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale<sup>8</sup>, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

4. ~~6.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada Personal Information Protection and Electronic Documents Act, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to the Debtor's past and current employees, ~~including personal information of those employees listed on Schedule "A" to the Sale Agreement~~. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtor.

5. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

(a) ~~(a)~~ the pendency of these proceedings;

(b) ~~(b)~~ any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtor and any bankruptcy order issued pursuant to any such applications; and

(c) ~~(c)~~ any assignment in bankruptcy made in respect of the Debtor;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a ~~settlement~~, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other

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

~~5~~

reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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

6. ~~9.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A  
Form of Receiver's Certificate~~Schedule A~~  
~~FORM OF RECEIVER'S CERTIFICATE~~

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

ONTARIO  
 SUPERIOR COURT OF JUSTICE  
 COMMERCIAL LIST

~~BETWEEN:~~

<NAME OF PLAINTIFF>

~~Plaintiff~~

BETWEEN:

ECC EDUCATION CONSOLIDATION CORPORATION

Applicant

- and -           

<NAME OF DEFENDANT>

~~Defendant~~

WCI WESTERVELT COLLEGE INC.

Respondent

~~RECEIVER'S~~ CERTIFICATE

RECITALS

~~A. A~~ Pursuant to an Order of the Honourable <name of judge> of the Ontario Superior Court of Justice (the "Court") dated <date of order>, <name of receiver> August 2, 2017, Richter Advisory Group Inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of <debtor> WCI Westervelt College Inc. (the "Debtor").

~~B.~~ Pursuant to an Order of the Court dated ~~<date>~~ August 2, 2017, the Court approved the agreement of purchase and sale made as of ~~<date of agreement>~~ July 26, 2107 (the “**Sale Agreement**”) between the ~~Receiver~~ ~~<debtor>~~ and ~~<name of purchaser>~~ Debtor and EFC Trade Inc. (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtor’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section~~ ~~<\*>~~ Article 11 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

~~C.~~ Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE RECEIVER ~~CERTIFIES~~ AND THE PURCHASER EACH CERTIFY** the following:

~~1.~~ ~~The Purchaser has paid and the Receiver has received the~~ 1. The Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement; ~~has been paid.~~

~~2.~~ 2. The conditions to Closing as set out in ~~section~~ ~~<\*>~~ of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; ~~and.~~

~~3.~~ 3. The Transaction has been completed to the satisfaction of the Receiver and the Purchaser.

~~4.~~ This Certificate was delivered by the Receiver at ~~<time>~~ on ~~<\*>~~, 20~~<\*>~~ [TIME] on [DATE].

~~8~~

~~<Name of Receiver>~~, **RICHTER**  
**ADVISORY GROUP INC.**, solely in its  
 capacity as the proposed Court appointed  
 Receiver of ~~the undertaking, property and~~  
~~assets of <Debtor>~~, WCI Westerville College  
Inc. and not in ~~its~~ any other capacity and with  
no personal capacity or corporate liability

Per:

Name:

Title:

Per:

Name:

Title:

I/We have the authority to bind Richter  
Advisory Group Inc.

~~9~~

This Certificate was delivered by the Purchaser at \_\_\_\_\_ on August \_\_\_\_\_, 2017

EFT TRADE INC.

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

Name:

Title:

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

Name:

Title:

I/We have the authority to bind the  
corporation

**Schedule B**  
**Specific Claims to be deleted and expunged as against**  
**WCI Westervelt College Inc.** ~~Schedule B~~  
**PURCHASED ASSETS**

**1. 20140120 1804 1532 5105**

**PPSA File No. 693264879**

Regn. Length: 5 years

Debtor: WCI Westervelt College Inc.

265 Notre Dame Avenue, Winnipeg, MB R3B 1N9

**Secured: Royal Bank of Canada**

220 Portage Avenue 2<sup>nd</sup> Floor, Winnipeg, MB R3C 0A5

Collateral: Inventory, Equipment, Accounts, Other, Motor Vehicle

General

Collateral

Description: The secured interest is taken in all of the debtor's present and after-acquired personal property.

**2. 20150923 1319 1862 8185**

**PPSA File No. 710196984**

Regn. Length: 4 years

Debtor: 1. ECC Education Consolidation Corporation

Suite 1300, 433 Main Street, Winnipeg, MB R3B 1B3

2. RCI Robertson College Inc.

Suite 1300, 433 Main Street, Winnipeg, MB R3B 1B3

3. WCI Westervelt College Inc.

1060 Wellington Street, London, ON N6E 3W5

**Secured: FWCU Capital Corp.**

6470 201 Street, Langley, BC V2Y 2X4

Collateral: Inventory, Equipment, Accounts, Other, Motor Vehicle



## Schedule C

~~CLAIMS TO BE DELETED AND EXPUNGED FROM TITLE TO REAL PROPERTY~~

## Schedule D

~~PERMITTED ENCUMBRANCES, EASEMENTS AND RESTRICTIVE COVENANTS~~~~RELATED TO THE REAL PROPERTY~~ Schedule CPermitted Encumbrances, Easements and Restrictive Covenants  
related to the Real Property(unaffected by the Approval and Vesting Order)

29606565.1

- NIL -30038961.1

Document comparison by Workshare Compare on July-31-17 3:24:29 AM

Input:	
Document 1 ID	interwovenSite://AB-WS1/CM/29606565/1
Description	#29606565v1<CM> - Model Approval and Vesting Order
Document 2 ID	interwovenSite://AB-WS1/CM/30038961/1
Description	#30038961v1<CM> - Tab 1(b) - Approval and Vesting Order
Rendering set	Standard

Legend:	
<a href="#">Insertion</a>	
<del>Deletion</del>	
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<a href="#">Moved to</a>	
Style change	
Format change	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	116
Deletions	111
Moved from	1
Moved to	1
Style change	0
Format changed	0
Total changes	229

## **Tab 4**

Court File No. CV-17-\_\_\_\_\_-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

BETWEEN:

**ECC EDUCATION CONSOLIDATION CORPORATION**

Applicant

- and -

**WCI WESTERVELT COLLEGE INC.**

Respondent

**APPLICATION PURSUANT TO SECTION 101 OF THE *COURTS OF JUSTICE ACT*,  
R.S.O. 1990, c. C.43, AS AMENDED**

**AFFIDAVIT OF JOHN KOEHN  
(sworn July 31, 2017)**

I, **JOHN KOEHN**, of the Village of Winnetka, in Cook County, in the State of Illinois, in the United States of America, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Director and the former Chief Executive Officer of ECC Education Consolidation Corporation (“**ECC**”), the corporate parent of WCI Westervelt College Inc. (“**WCI**”). As such, I have personal knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, believe it to be true.

## NATURE OF APPLICATION AND RELIEF SOUGHT

2. This Affidavit is sworn in support of an application by ECC for:

- (a) an Order pursuant to section 101 of the *Courts of Justice Act* appointing Richter Advisory Group Inc. (“**Richter**”) as receiver (in such capacity, the “**Receiver**”), without security, over all of the assets, undertakings and properties of WCI (the “**Receivership Order**”); and
- (b) an Order:
  - (i) approving an asset purchase agreement (the “**Purchase Agreement**”) dated July 26, 2017 between WCI, as vendor, and EFC Trade Inc. (the “**Purchaser**”), and authorizing the Receiver to complete the transaction contemplated thereby (the “**Transaction**”); and
  - (ii) vesting in the Purchaser all of WCI’s right, title and interest in and to the assets described in the Purchase Agreement, free and clear of any claims and encumbrances subject to certain exceptions,(the “**Approval and Vesting Order**”).

3. WCI operates the Westervelt College private career college business in London, Ontario (the “**College**”), which business has been operating at a financial loss since WCI was purchased by a subsidiary of ECC in February, 2012. During that time, WCI has continued to operate only with significant advances of cash from ECC.

4. ECC has been marketing the College for sale since November, 2015, and the Transaction with the Purchaser is the result of those efforts. The pool of potential purchasers was very limited due to: (a) the condition of WCI's business; (b) adverse market conditions in the private career college sector; and (c) the need for regulatory approval of any purchaser.

5. In order to allow the College's current students to complete their programs in an orderly fashion, ECC is, effectively, paying the Purchaser to assume responsibility for operating the College. The Purchaser has obtained the necessary regulatory approval to operate the College post-closing of the Transaction.

6. ECC will not, however, fund the College's operations any further if the Transaction is not approved or if closing of the Transaction is delayed.

#### **DESCRIPTION OF WCI**

7. WCI is a corporation formed by the July 1, 2012 amalgamation, pursuant to the laws of the Province of Ontario, of Westervelt College Inc. and 2307311 Ontario Limited (the ECC subsidiary who purchased the shares of Westervelt College Inc.). A copy of WCI's corporation profile report, obtained from the Ontario Ministry of Government Services on July 6, 2017, is attached as **Exhibit "A"** to this Affidavit.

8. The College was originally founded in 1885 and is currently one of the leaders in providing career education in the areas of business, healthcare, law and information technology in Southern Ontario. A full list of WCI's currently offered programs is found at **Exhibit "B"** to this Affidavit.

9. The College is subject to the *Private Career Colleges Act, 2005*, S.O. 2005, c. 28, Sched. L, and is regulated by the Ontario Ministry of Advanced Education, Skills and Development (“**MAESD**”) and the Superintendent of Private Career Colleges (the “**Superintendent**”) at the Private Career Colleges Branch of MAESD.

10. Certain of the WCI’s programs are subject to accreditation by a number of professional governing bodies including the Law Society of Upper Canada, the Canadian Council for Accreditation of Pharmacy Programs, the Canadian Health Information Management Association and the Canadian Society of Orthopaedic Technologists. WCI’s programs are approved under the Ontario Student Assistance Program (“**OSAP**”) and WCI is approved under the Ontario International Student Program to sell to international students.

11. WCI has approximately 180 full-time students enrolled in active programs.

12. As of the date of this Affidavit, WCI has 69 employees. None of the employees are subject to a collective agreement. WCI does not sponsor, participate in, or have any liability with respect to any pension plan. WCI uses Ceridian as its payroll services provider.

13. WCI’s campus and head office are located in leased premises at 1060 Wellington Road, London, Ontario (the “**London Premises**”).

14. ECC is the 100% owner and a creditor of WCI.

15. As at June 30, 2017, WCI was indebted to ECC in the amount of \$2,789,569. As well, in December, 2015, ECC subscribed for new preferred shares of WCI and WCI used the proceeds to pay down an additional \$8.5 million in debt owed to ECC.

16. ECC, on WCI's behalf, has also posted: (a) a \$554,000 letter of credit as security with MAESD's Training Completion Assurance Fund; and (b) a \$33,250 letter of credit for security with OSAP. Should either of those letters of credit be drawn upon, ECC would be liable to the issuing banks in an equivalent amount.

17. A search of registrations made against WCI pursuant to the *Personal Property Security Act* (Ontario) reveal:

- (a) a registration by the Royal Bank of Canada ("**RBC**") made in respect of a general security interest that secures a WCI guarantee of an ECC credit facility (the "**RBC Guarantee**"); and
- (b) a registration by FWCU Capital Corp. ("**First West**") made in respect of a general security interest that secures a WCI guarantee of a second ECC credit facility (the "**First West Guarantee**").

A copy of the Ontario Personal Property Security Registration System search results for WCI, current to July 5, 2017, is attached as **Exhibit "C"** to this Affidavit.

18. The obligations guaranteed by the RBC Guarantee currently total approximately \$4,058,316 and the obligations guaranteed by the First West Guarantee currently total approximately \$1,250,000. RBC and First West have each consented to the Transaction and to the granting of the Approval and Vesting Order. Copies of their respective consents are attached at **Exhibit "D"** to this Affidavit.



19. As at July 19, 2017, WCI owed approximately \$33,676 to its unsecured trade creditors. It also owes \$101,048 to the landlord of the London Premises for deferred rent increases and costs of repairs.

20. ECC intends to fund WCI's payroll through to closing of the Transaction, as well as to fund payment of WCI's outstanding vacation pay arrears.

### **WCI'S FINANCIAL DIFFICULTIES**

21. Since its acquisition by ECC in early 2012, WCI has faced a number of challenges, including:

- (a) a reduction, since 2011, to the Second Career program, which was established in response to the global recession of 2008–09 to provide funding to laid-off workers seeking retraining;
- (b) increased competition in the London market;
- (c) reduced demand for certain programs;
- (d) the exit from the London marketplace of an number of major employers including Kelloggs in 2014 and Caterpillar in 2015;
- (e) a decline in the domestic student base coupled with limited access to international students;
- (f) WCI has found the marketing cost per lead (i.e. a potential student who makes inquiry with the College) to be in excess of the marketing cost in other markets;

- (g) the London Premises are much larger than the College requires, but the lease still has over nine years remaining in its term, provides for annual rent increases and does not allow WCI to sub-lease;
- (h) the London Premises requires interior upgrades which WCI has not been able to afford;
- (i) the College has suffered from departures of certain staff;
- (j) the College's quarterly (as opposed to continuous) program start date model has discouraged some enrolment; and
- (k) the College has struggled to introduce new programs and revisions to existing programs.

22. Some of the above problems were highlighted by two external studies done for WCI. In January, 2015, WCI commissioned an external market evaluation study and in July 2015, ECC hired an independent consultant to perform on-site assessment of reasons for the College's declining enrollment and poor financial performance. That second study concluded that WCI had solid management and staff and acceptable physical facilities, which suggested that the enrollment decline was due to market demand, product offerings and competition.

23. The above challenges have combined to result in WCI's annual revenues being reduced approximately 26% from 2014 to 2016, and its annual net losses climbing over 730% in the same period. Currently, WCI requires approximately \$150,000 per month of cash advances from ECC to operate and even that amount of cash advances is not sufficient to keep WCI current on all its liabilities. ECC has advanced those funds on an unsecured basis.

## MARKETING THE COLLEGE FOR SALE

24. In October 2015, ECC asked one of its shareholders, the Illinois-based private equity fund, Maxim Partners LLC (“**Maxim**”), to evaluate the potential market for a sale of WCI. At the same time, ECC requested that the WCI board of directors prepare an orderly wind-down plan, in case a sale could not be done.

25. In November, 2015, Maxim hired the mergers and acquisition advisory firm, Capstone Partners LLC (“**Capstone**”), to prepare a list of potential buyers. Capstone prepared a one-page teaser for potential buyers (the “**Teaser**”), a copy of which is attached at **Exhibit “E”** to this Affidavit.

26. The two parties contacted by Capstone both signed non-disclosure agreements. One of those parties, a private career college with campuses in other Ontario markets and two other provinces, declined to pursue the opportunity after reviewing summary information.

27. The second party contacted by Capstone, a competitor of WCI with a campus in London and campuses in a number of other Ontario cities (“**Bidder 1**”), entered into discussions from December, 2015 through February, 2016, but then terminated discussions because it was not willing to assume the lease to the London Premises.

28. In December, 2015, former ECC vice-president, Don Thibert (“**Thibert**”) introduced WCI to a Europe-based education company with campuses in Europe, the United Kingdom and Western Canada. That party submitted a letter of intent in December, 2015, but withdrew it that same month. The reason communicated to WCI was a backlog of other, higher-priority acquisition projects.

29. Negotiations were then conducted from July, 2016 through October, 2016, with a former WCI board member, but terminated when the individual was unable to demonstrate an ability to finance the transaction.

30. At that point ECC charged Maxim and WCI's management with selling WCI or closing it down.

31. In November, 2016 Maxim reached out to Bidder 1, resulting in renewed discussions that lead to the signing of a letter of intent in February, 2017. The letter of intent with Bidder 1 contemplated an insolvency or restructuring filing in which the College could be unburdened of the lease to the London Premises. In March, 2017, Bidder 1 renegotiated the purchase price downward, leading to the signing of a revised letter of intent and then several drafts of a definitive asset purchase agreement in April, 2017. In early May, 2017, Bidder 1 declined to pursue the deal, indicating it had no further interest.

32. In March, 2017, Thibert expressed interest in acquiring the College in conjunction with his acquisition of three campuses of another competitor, Medix College of Healthcare ("**Medix**").

33. In May, 2017, Thibert identified a partner in his private college acquisitions and a letter of intent from Thibert and that partner was executed on May 17, 2017.

34. Richter has indicated that it considers the above steps taken since late 2015 to market WCI and/or the College to be reasonable in the circumstances.

## APPROVAL OF THE TRANSACTION

35. The Purchase Agreement was executed between WCI and the Purchaser, as Thibert's and Saint Elizabeth's nominee. The Purchase Agreement was also signed in acknowledgement by Richter, as the intended Receiver, and by ECC, as WCI's source of funding for certain of WCI's obligations thereunder. A copy of the Purchase Agreement is attached as **Exhibit "F"** to this Affidavit.

36. The Purchase Agreement contemplates that the Purchaser will buy all assets, property, rights and undertakings of WCI related or used in connection with the College, subject to specific exclusions (the "**Purchased Assets**"). On closing of the Transaction, the Purchaser will assume the obligation to complete the training of all active students of the College, beginning at the London Premises and then transitioning to the London Medix campus. The Purchaser will not assume the lease to the London Premises, but WCI will provide it a license to use such premises until September 30, 2017 (the "**Occupancy Period**"). In accordance with and subject to the terms of the Purchase Agreement, the Purchaser may make offers with respect to go forward employment to an as yet-to-be-determined number of current WCI employees.

37. The consideration for the Transaction will flow both ways, namely: (a) the Purchaser will make a cash payment of \$1 to WCI and will assume of certain liabilities of WCI (including those described above); (b) WCI will make a cash payment (funded by ECC) to the Purchaser in the amount of \$75,000; and (c) ECC will also fund the occupancy costs of the London Premises for the Occupancy Period. As a result, there will be no net cash proceeds of the Transaction for the estate of WCI.

38. Although the Transaction's effectively negative cash purchase price is unconventional, it is in line with what was contemplated by the Bidder 1 letter of intent and with what was discussed in the negotiations with the former WCI board member in the summer of 2016. As mentioned previously, WCI's only two secured creditors, RBC and First West, have consented to the Transaction.

39. The Purchase Agreement requires, as a condition precedent, that MAESD approve the Purchaser to operate the College post-closing. That approval was obtained on July 26, 2017.

40. In addition, approval from four program accreditation organizations is required. The Purchaser has advised that all those approvals have also been obtained.

41. The Approval and Vesting Order is a condition under the Purchase Agreement to closing of the Transaction.


42. The Purchase Agreement requires the Transaction to close by August 15, 2017, or the Purchase Agreement will be terminated (the "**Outside Date**"). The Outside Date was extended multiple times during the process of negotiation of the Purchase Agreement and consideration of the Purchase Agreement by MAESD and the Superintendent of Private Career Colleges.

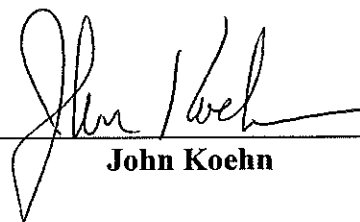
43. ECC is no longer willing to fund WCI's losses past the Outside Date. Accordingly, the only alternative to the Transaction is a bankruptcy of WCI. In that scenario, MAESD would assume control of operation of the college to teach-out current programs and/or transfer current students to other private colleges, with potentially significant disruption to the students and significant losses to employees and other stakeholders.

## APPOINTMENT OF A RECEIVER

44. WCI is insolvent and unable to fulfill all its obligations to ECC and other stakeholders.
45. The Purchase Agreement requires that the Receiver be appointed to close the Transaction;
46. In the circumstances set out above, I believe that it is just and equitable that a receiver be appointed over WCI's assets, properties and undertaking. A receiver is necessary for the protection of WCI's estate, the interests of ECC and other stakeholders and to conclude the Transaction. The Order sought by ECC would give the Receiver the relatively limited powers necessary to complete the Transaction. WCI will remain in possession and control of the College until the closing of the Transaction.
47. ECC proposes that Richter be appointed as the Receiver. Richter is a licensed trustee in bankruptcy and is familiar with the private career college industry. Richter has consented to act as receiver should the Court so appoint it.
48. This Affidavit is made in support of the within application for the appointment of Richter as Receiver and the approval of the Transaction, and for no other or improper purpose whatsoever.

**SWORN** before me at the  
Village of Winnetka, in Cook County,  
in the State of Illinois,  
this 31<sup>st</sup> day of July, 2017

  
\_\_\_\_\_  
Notary Public

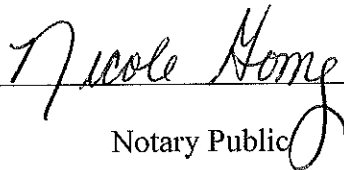
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\_\_\_\_\_  
**John Koehn**



## **Tab 4(a)**



Attached is Exhibit "A" Referred to in the  
AFFIDAVIT OF JOHN KOEHN  
Sworn before me this 31<sup>st</sup> day of July, 2017

  
Notary Public



Request ID: 020456417  
 Transaction ID: 64974794  
 Category ID: UN/E

Province of Ontario  
 Ministry of Government Services

Date Report Produced: 2017/07/06  
 Time Report Produced: 11:41:54  
 Page: 1

## CORPORATION PROFILE REPORT

<b>Ontario Corp Number</b>	<b>Corporation Name</b>	<b>Amalgamation Date</b>
1876836	WCI WESTERVELT COLLEGE INC.	2012/07/01
		<b>Jurisdiction</b>
		ONTARIO
<b>Corporation Type</b>	<b>Corporation Status</b>	<b>Former Jurisdiction</b>
ONTARIO BUSINESS CORP.	ACTIVE	NOT APPLICABLE
<b>Registered Office Address</b>	<b>Date Amalgamated</b>	<b>Amalgamation Ind.</b>
181 BAY STREET	NOT APPLICABLE	A
<b>Suite # 1800</b> TORONTO ONTARIO CANADA M5J 2T9	<b>New Amal. Number</b>	<b>Notice Date</b>
	NOT APPLICABLE	NOT APPLICABLE
<b>Mailing Address</b>		<b>Letter Date</b>
181 BAY STREET		NOT APPLICABLE
<b>Suite # 1800</b> TORONTO ONTARIO CANADA M5J 2T9	<b>Revival Date</b>	<b>Continuation Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>Transferred Out Date</b>	<b>Cancel/Inactive Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>EP Licence Eff.Date</b>	<b>EP Licence Term.Date</b>
	NOT APPLICABLE	NOT APPLICABLE
	<b>Number of Directors</b> <b>Minimum</b> <b>Maximum</b>	<b>Date Ceased</b> <b>in Ontario</b>
	00001 00010	NOT APPLICABLE
<b>Activity Classification</b>		
NOT AVAILABLE		

Request ID: 020456417  
Transaction ID: 64974794  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/07/06  
Time Report Produced: 11:41:54  
Page: 2

## CORPORATION PROFILE REPORT

### Ontario Corp Number

1876836

### Corporation Name

WCI WESTERVELT COLLEGE INC.

### Corporate Name History

WCI WESTERVELT COLLEGE INC.

### Effective Date

2012/07/01

### Current Business Name(s) Exist:

YES

### Expired Business Name(s) Exist:

YES - SEARCH REQUIRED FOR DETAILS

### Amalgamating Corporations

#### Corporation Name

WESTERVELT COLLEGE INC.

2307311 ONTARIO LIMITED

#### Corporate Number

1220039

2307311

Request ID: 020456417  
Transaction ID: 64974794  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/07/06  
Time Report Produced: 11:41:54  
Page: 3

## CORPORATION PROFILE REPORT

**Ontario Corp Number**

1876836

**Corporation Name**

WCI WESTERVELT COLLEGE INC.

**Administrator:****Name (Individual / Corporation)**

HENRY

DEVLIN

**Address**

181 BAY STREET

Suite # 1800  
TORONTO  
ONTARIO  
CANADA M5J 2T9

**Date Began**

2013/07/01

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

PRESIDENT

**Resident Canadian****Administrator:****Name (Individual / Corporation)**

HENRY

DEVLIN

**Address**

181 BAY STREET

Suite # 1800  
TORONTO  
ONTARIO  
CANADA M5J 2T9

**Date Began**

2013/07/01

**First Director**

NOT APPLICABLE

**Designation**

OFFICER

**Officer Type**

CHIEF EXECUTIVE OFFICER

**Resident Canadian**

Request ID: 020456417  
 Transaction ID: 64974794  
 Category ID: UN/E

Province of Ontario  
 Ministry of Government Services

Date Report Produced: 2017/07/06  
 Time Report Produced: 11:41:54  
 Page: 4

## CORPORATION PROFILE REPORT

### Ontario Corp Number

1876836

### Corporation Name

WCI WESTERVELT COLLEGE INC.

### Administrator:

#### Name (Individual / Corporation)

SEAN  
 MACDONALD

#### Address

181 BAY STREET  
 Suite # 1800  
 TORONTO  
 ONTARIO  
 CANADA M5J 2T9

### Date Began

2013/07/01

### First Director

NOT APPLICABLE

### Designation

OFFICER

### Officer Type

CHIEF FINANCIAL OFFICER

### Resident Canadian

### Administrator:

#### Name (Individual / Corporation)

GREGORY  
 WILSON

#### Address

135 S. ELM STREET  
 HINSDALE  
 ILLINOIS  
 UNITED STATES OF AMERICA 60521

### Date Began

2012/07/01

### First Director

NOT APPLICABLE

### Designation

DIRECTOR

### Officer Type

### Resident Canadian

N

Request ID: 020456417  
Transaction ID: 64974794  
Category ID: UN/E

Province of Ontario  
Ministry of Government Services

Date Report Produced: 2017/07/06  
Time Report Produced: 11:41:54  
Page: 5

## CORPORATION PROFILE REPORT

Ontario Corp Number

1876836

Corporation Name

WCI WESTERVELT COLLEGE INC.

Last Document Recorded

Act/Code	Description	Form	Date
CIA	CHANGE NOTICE	1	2017/02/14 (ELECTRONIC FILING)

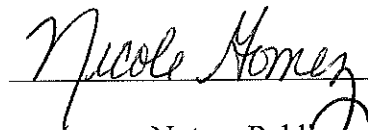
THIS REPORT SETS OUT THE MOST RECENT INFORMATION FILED BY THE CORPORATION ON OR AFTER JUNE 27, 1992, AND RECORDED IN THE ONTARIO BUSINESS INFORMATION SYSTEM AS AT THE DATE AND TIME OF PRINTING. ALL PERSONS WHO ARE RECORDED AS CURRENT DIRECTORS OR OFFICERS ARE INCLUDED IN THE LIST OF ADMINISTRATORS.

ADDITIONAL HISTORICAL INFORMATION MAY EXIST ON MICROFICHE.

The issuance of this report in electronic form is authorized by the Ministry of Government Services.

**Tab 4(b)**

Attached is Exhibit "B" Referred to in the  
AFFIDAVIT OF JOHN KOEHN  
Sworn before me this 31<sup>st</sup> day of July, 2017

  
\_\_\_\_\_  
Notary Public





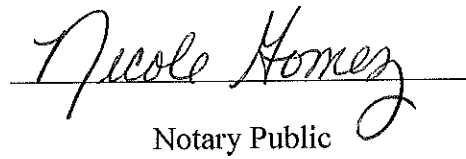
1. **Westervelt College, London**

1060 Wellington Road , London, ON N6E3W5

<u>Program</u>	<u>Weeks</u>	<u>Hours</u>
Business Accounting and Payroll	52	1284
Business Marketing Professional	52	1200
Executive Administration	39	1080
Health Information Management	67	1854
Hotel, Restaurant and Casino	25	500
Information Technology Technician	39	924
Interior Decorating	25	512
Law Clerk	52	1176
Law, Security, and Police Foundations	52	1240
Massage Therapy	77	2244
Medical Administration	47	1072
Medical Laboratory Assistant/Technician	39	1068
Office Administrator	25	660
Orthopaedic Technician	52	1410
Paralegal Studies	52	1236
Personal Support Worker	24	700
Pharmacy Assistant (6 months)	26	702
Pharmacy Technician	52	1386
Receptionist	13	348
Supply Chain and Logistics	65	1610
Tourism and Travel	25	600
Web Design Professional	52	1100

**Tab 4(c)**

Attached is Exhibit "C" Referred to in the  
AFFIDAVIT OF JOHN KOEHN  
Sworn before me this 31<sup>st</sup> day of July, 2017

  
Notary Public



RUN NUMBER : 187  
RUN DATE : 2017/07/06  
ID : 20170706114132.98

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 1  
( 3599)

THIS IS TO CERTIFY THAT A SEARCH HAS BEEN MADE IN THE RECORDS OF THE CENTRAL OFFICE  
OF THE PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM IN RESPECT OF THE FOLLOWING:

TYPE OF SEARCH : BUSINESS DEBTOR

SEARCH CONDUCTED ON : WCI WESTERVELT COLLEGE INC.

FILE CURRENCY : 05JUL 2017

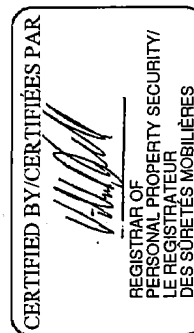
ENQUIRY NUMBER 20170706114132.98 CONTAINS 5 PAGE(S), 2 FAMILY(IES).

THE SEARCH RESULTS MAY INDICATE THAT THERE ARE SOME REGISTRATIONS WHICH SET OUT A BUSINESS DEBTOR NAME  
WHICH IS SIMILAR TO THE NAME IN WHICH YOUR ENQUIRY WAS MADE. IF YOU DETERMINE THAT THERE ARE OTHER  
SIMILAR BUSINESS DEBTOR NAMES, YOU MAY REQUEST THAT ADDITIONAL ENQUIRIES BE MADE AGAINST THOSE NAMES.

AIRD & BERLIS LLP  
ATTN: PAVLO PULNYEV  
HOLD FOR PICKUP  
TORONTO ON M5J2T9

CONTINUED...

2



REPORT : PSSR060  
PAGE : 2  
( 3600 )

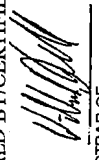
PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

RUN NUMBER : 187  
RUN DATE : 2017/07/06  
ID : 20170706114132.98

TYPE OF SEARCH : BUSINESS DEBTOR  
SEARCH CONDUCTED ON : WCI WESTERVELT COLLEGE INC.  
FILE CURRENCY : 05JUL 2017

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00	FILE NUMBER	710196984									
01	CAUTION FILING	PAGE NO.	TOTAL PAGES	MOTOR VEHICLE SCHEDULE	REGISTRATION NUMBER	REGISTERED UNDER	REGISTRATION PERIOD				
		001	002	20150923	1319	1862	8185	P	PPSA	4	
02	DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME						
03	BUSINESS NAME	ECC EDUCATION CONSOLIDATION CORPORATION									
04	ADDRESS	SUITE 1300, 433 MAIN STREET WINNIPEG ONTARIO CORPORATION NO. MB R3B 1B3									
05	DEBTOR NAME	DATE OF BIRTH	FIRST GIVEN NAME	INITIAL	SURNAME						
06	BUSINESS NAME	RCI ROBERTSON COLLEGE INC.									
07	ADDRESS	SUITE 1300, 433 MAIN STREET WINNIPEG ONTARIO CORPORATION NO. MB R3B 1B3									
08	SECURED PARTY / LIEN CLAIMANT	FWCU CAPITAL CORP.									
09	ADDRESS	6470 201 STREET LANGLEY BC V2Y 2X4									
10	COLLATERAL CLASSIFICATION	CONSUMER	GOODS	INVENTORY	EQUIPMENT	ACCOUNTS	OTHER	INCLUDED	DATE OF MATURITY	OR DATE	NO. FIXED
		X	X	X	X	X	X	X			
11	MOTOR VEHICLE	YEAR	MAKE	MODEL	V.I.N.						
12	GENERAL COLLATERAL DESCRIPTION										
13	REGISTERING AGENT	MILLER THOMSON LLP (JL)									
14	ADDRESS	ROBSON COURT, 1000-840 HOWE STREET VANCOUVER BC V6Z 2M1									
15	*** FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. ***										
16	CONTINUED...										
17	3										

CERTIFIED BY/CERTIFIÉES PAR  
  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTREUR DES  
SÛRETÉS MOBILIÈRES  
(crt/s 09/2013)



RUN NUMBER : 187  
RUN DATE : 2017/07/06  
ID : 20170706114132.98

PROVINCE OF ONTARIO  
MINISTRY OF GOVERNMENT SERVICES  
PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY RESPONSE  
CERTIFICATE

REPORT : PSSR060  
PAGE : 3  
( 3601)

TYPE OF SEARCH : BUSINESS DEBTOR

SEARCH CONDUCTED ON : WCI WESTERVELT COLLEGE INC.  
FILE CURRENCY : 05JUL 2017

FORM 1C FINANCING STATEMENT / CLAIM FOR LIEN

00 FILE NUMBER  
710196984

01 CAUTION PAGE TOTAL MOTOR VEHICLE REGISTRATION REGISTERED REGISTRATION  
FILING NO. OF PAGES NO. OF PAGES NUMBER UNDER PERIOD  
002 002 20150923 1319 1862 8185

02 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
03 NAME BUSINESS NAME WCI WESTERVELT COLLEGE INC.

04 ADDRESS 1060 WELLINGTON STREET LONDON  
ONTARIO CORPORATION NO. ON N6E 3W5

05 DEBTOR DATE OF BIRTH FIRST GIVEN NAME INITIAL SURNAME  
06 NAME BUSINESS NAME

07 ADDRESS  
ONTARIO CORPORATION NO.

08 SECURED PARTY /  
09 LIEN CLAIMANT ADDRESS

10 COLLATERAL CLASSIFICATION  
CONSUMER MOTOR VEHICLE AMOUNT DATE OF NO. FIXED  
GOODS INVENTORY EQUIPMENT ACCOUNTS OTHER INCLUDED MATURITY OR MATURITY DATE

11 MOTOR YEAR MAKE MODEL V.I.N.  
12 VEHICLE


13 GENERAL  
14 COLLATERAL  
15 DESCRIPTION

16 REGISTERING  
17 AGENT ADDRESS

\*\*\* FOR FURTHER INFORMATION, CONTACT THE SECURED PARTY. \*\*\*

CONTINUED...

4

CERTIFIED BY/CERTIFIÉES PAR  
  
REGISTRAR OF  
PERSONAL PROPERTY SECURITY/  
LE REGISTRATEUR  
DES SÛRETÉS MOBILIÈRES  
(c/jfs 09/2013)





RUN NUMBER : 187  
 RUN DATE : 2017/07/06  
 ID : 20170706114132.98

PROVINCE OF ONTARIO  
 MINISTRY OF GOVERNMENT SERVICES  
 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
 ENQUIRY RESPONSE  
 CERTIFICATE

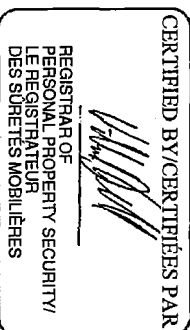
REPORT : PSSR060  
 PAGE : 5  
 ( 3603 )

TYPE OF SEARCH : BUSINESS DEBTOR  
 SEARCH CONDUCTED ON : WCI WESTERVELT COLLEGE INC.  
 FILE CURRENCY : 05JUL 2017

INFORMATION RELATING TO THE REGISTRATIONS LISTED BELOW IS ATTACHED HERETO.

FILE NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER	REGISTRATION NUMBER
710196984	20150923	1319	1862	8185
693264879	20140120	1804	1532	5105

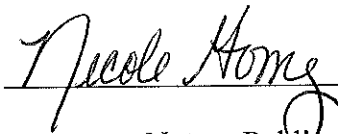
2 REGISTRATIONS(S) ARE REPORTED IN THIS ENQUIRY RESPONSE.





## **Tab 4(d)**

Attached is Exhibit "D" Referred to in the  
AFFIDAVIT OF JOHN KOEHN  
Sworn before me this 31<sup>st</sup> day of July, 2017

  
\_\_\_\_\_  
Notary Public





**RBC Royal Bank**

**Royal Bank of Canada**  
Commercial Financial Services  
100-220 Portage Ave  
Winnipeg, MB R3C 0A5

Mark Schollenberg  
Direct: 204-988-4227  
Fax: 204-988-4487  
mark.schollenberg@rbc.com

July 19, 2017

ECC Education Consolidation Corporation  
433 Main St  
13<sup>th</sup> Floor  
Winnipeg, MB R3B 1B3  
Attention: Sean MacDonald, CFO

Dear Mr. MacDonald,

**RE: Consent to Sale of WCI Westervelt College Inc.**

This letter is to confirm that Royal Bank of Canada consents to the sale of the assets of WCI Westervelt College Inc. as described in the Asset Purchase Agreement dated June 14, 2017 and to the Approval and Vesting Order contemplated thereby. We also confirm that this transaction shall not constitute a breach of the terms of any of the agreements which have been entered into by the Bank and ECC and/or its subsidiaries, nor of any of the security or other documents granted by ECC and/or its subsidiaries in favour of the Bank in connection with the Agreements, including without limitation, any guarantees or general security agreements granted by ECC and/or its subsidiaries in favour of the Bank.

Please let me know if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read 'MS', with a large, stylized flourish at the end.

Mark Schollenberg  
Commercial Account Manager



A DIVISION OF FIRST WEST CREDIT UNION

July 20, 2017

ECC Education Consolidation Corporation  
265 Notre Dame Ave  
Winnipeg, MB  
R3B 1N9

Attention: Mr. Gregg Wilson

Dear Mr. Gregg Wilson,

Re: ECC Education Consolidation Corporation, RCI Robertson College Inc., WCI Westervelt College Inc. (the "Borrowers")

Subject to the terms of this letter and the Agreement dated for reference September 22, 2015, the Lender agrees to provide consent to the Borrowers to the sale of assets of WCI Westervelt College Inc. and to the making of an approval and vesting order by the Ontario Superior Court of Justice in connection with such sale. This consent is referenced to Section 10.2(h) of the Agreement entitled "Negative Covenants".

This letter may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered (including by facsimile transmission or as a pdf attachment to an email) shall constitute an original, but all such counterparts when taken together shall constitute one and the same instrument.

If you have any questions please call me at t: 604 501 4264 or c: 604 996 2685.

Yours truly,

A handwritten signature in black ink, appearing to read "K. Miller", with a stylized flourish extending from the end.

Kristi Miller, MBA  
Vice-President  
FWCU Capital Corp.

Accepted this day 29th of July, 2017

We acknowledge and agree to the contents to this letter.

**ECC Education Consolidation Corporation**

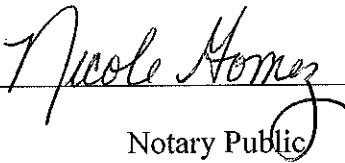
By: \_\_\_\_\_

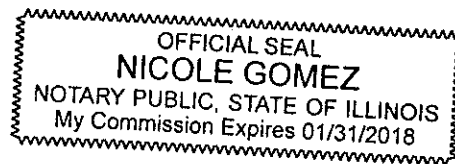
Name: Mr. Gregg Wilson

I have the authority to bind the Corporation

**Tab 4(e)**

Attached is Exhibit "E" Referred to in the  
AFFIDAVIT OF JOHN KOEHN  
Sworn before me this 31<sup>st</sup> day of July, 2017

  
\_\_\_\_\_  
Notary Public



# PROJECT WCI

## FOR PROFIT PROVIDER OF CAREER EDUCATION

Westervelt College (WCI) is a leading Canadian provider of vocational training and career programs founded in 1886. It offers 17 programs in the fields of Law, Business, Healthcare, Services and Computer/IT. The current campus student population is ~265 students.

WCI is located in London, Ontario at a prominent, readily accessible intersection that provides excellent visibility. The facility is built for school operations and has ample student parking.

WCI's key program offerings include, but are not limited to:

- Healthcare, 60% of FY15 revenue (3rd party accredited programs incl. Orthopedic Tech, Health Information Management, Massage Therapy, Pharmacy Tech, as well as Medical Lab and Medical Office Assistant)
- Law, 13% of FY15 revenue (Police Foundations, Paralegal Studies and Law Clerk)
- Business, 21% of FY15 revenue (Business Accounting & Payroll, Executive Administration, Sales & Marketing)
- Computer/IT & Services, 6% of FY15 revenue

Significant changes have been implemented to bolster operations over the past 12 months:

- WCI evolved from a quarterly to monthly intake model in early 2015, in order to grow starts by shortening the time from recruit to start.
- Upgraded, mobile friendly web site and other new tactics in 2015 transformed declining leads into 22% YOY lead growth.
- New programs added in 2015 are expected to contribute 30% of FY16 started revenue; additional programs are being readied for Ministry submission.
- Low performing programs have been taught out over the past 12 months.
- The Company recently undertook an initiative to reduce book costs at WCI that are significantly higher as a % of Revenue vs. other campuses. It expects to generate \$170k in annual savings, which is not included in the forecast.

For the fiscal year ending June 30, 2016, WCI is forecast to generate revenue and EBITDA of \$3.8 million and -\$0.6 million, respectively. FY17 forecast revenue and EBITDA are \$5.1 million and \$0.1 million, respectively.

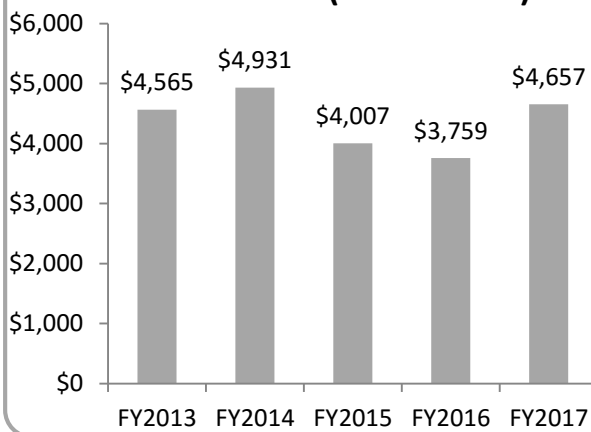
## INVESTMENT HIGHLIGHTS

- WCI ownership has elected to focus management resources on organic growth and away from building out the Ontario market.
- WCI is the oldest private college in Canada with a stellar reputation of educational excellence throughout its nearly 130 year history.
- Significant new program growth opportunities exist. In 2015 WCI launched its first new programs in 8 years: 1) Orthopedic Tech; and 2) Health Information Management. Outstanding results from initial intakes support further new program investment.
- Default rates are well below minimum standards established by OSAP and the education ministry.
- High Operational Leverage. The ability to add students will exponentially increase operating profit as substantial excess classroom capacity exists.
- WCI grad rate (75%), placement rate (78%) and repayment rate (87%) all exceed ministry expectations.
- \$2.6 million in loss carry-forwards available, which could result in \$625k of effective tax savings.

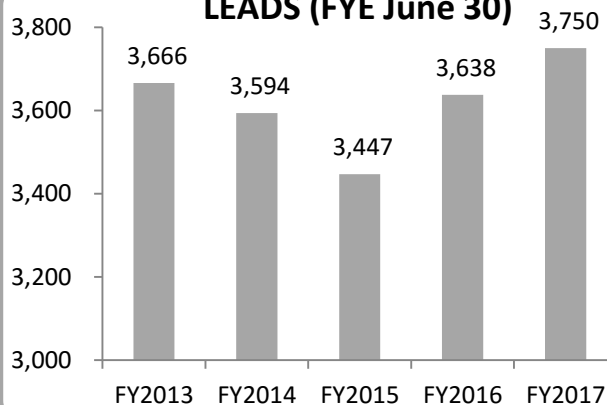
## TRANSACTION OVERVIEW

Project Name	WCI
Opportunity	Full Acquisition
Ownership	Privately Held
Industry	For Profit Education
Location	London, Ontario

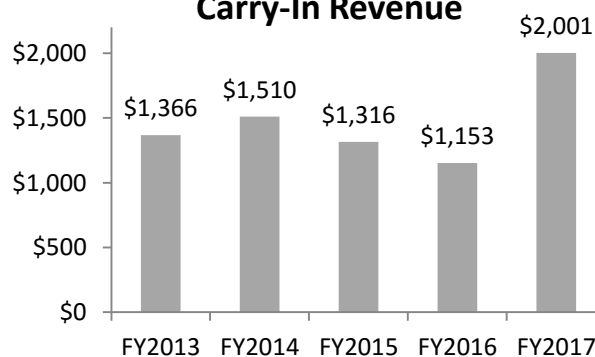
## REVENUE (FYE June 30)



## LEADS (FYE June 30)



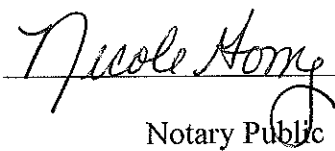
## Carry-In Revenue

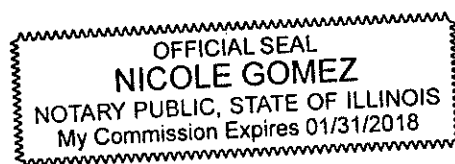




**Tab 4(f)**

Attached is Exhibit "F" Referred to in the  
AFFIDAVIT OF JOHN KOEHN  
Sworn before me this 31<sup>st</sup> day of July, 2017

  
Notary Public



**WCI WESTERVELT COLLEGE INC.**

as Vendor

and

**EFC TRADE INC .**

as Purchaser

---

**ASSET PURCHASE AGREEMENT**

July 26, 2017

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Aird & Berlis LLP  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, Ontario  
M5J 2T9

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## ASSET PURCHASE AGREEMENT

This asset purchase agreement is dated July 26, 2017 between EFC Trade Inc. (the “**Purchaser**”) and WCI Westervelt College Inc. (the “**Vendor**”), such agreement also to be executed by ECC and Richter, as more particularly provided for below.

### WHEREAS:

- A. The Vendor operates the Westervelt College private career college business in London, Ontario (the “**Business**”) and is registered with the Superintendent of Private Career Colleges to do so.
- B. Representatives of the Purchaser delivered, and the Vendor executed in acceptance, a letter of intent dated May 16, 2017 (the “**LOI**”) in respect of a potential transaction involving the purchase and sale of substantially all of the assets of the Vendor and the assignment and assumption of certain liabilities of the Vendor, as now more particularly provided for in this Agreement which supersedes the LOI in all respects, in accordance with Section 14.07 (the “**Transaction**”).
- C. In order to facilitate the Transaction, the Vendor’s parent, ECC Education Consolidation Corp. (“**ECC**”) intends to seek an order of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) appointing Richter Advisory Group Inc. (“**Richter**”) as receiver of the Vendor (in such capacity, the “**Receiver**”) pursuant to section 101 of the *Courts of Justice Act* (Ontario) (the “**CJA**”) and pursuant to (i) an Appointment Order and (ii) an Approval and Vesting Order, each such Order, and the accompanying Court application materials, to be in form and content satisfactory to the Purchaser, which Orders shall, inter alia, authorize and direct the Receiver to perform the obligations of the Vendor under this Agreement including the obligation to close the Transaction on behalf of the Vendor in accordance with the terms of this Agreement.

In consideration of the above and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

## ARTICLE 1 INTERPRETATION

### Section 1.1 Definitions.

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

“**Accounts Receivable**” means all accounts receivable, notes receivable and other amounts owing to the Vendor.

“**Active Students**” means all students of the Vendor who are actively enrolled for at least one class in a full time diploma program, a part time diploma program or

certification program with the Vendor at the date of this Agreement and who remain so enrolled as at the Closing Date.

**“Agreement”** means this asset purchase agreement resulting from the acceptance, by all, and not less than all, of: (i) the Vendor (ii) ECC and (iii) Richter of the offer provided for in Section 14.16, including all recitals and all schedules annexed hereto, as the same may be amended, supplemented or otherwise modified from time to time in accordance with the terms hereof.

**“Appointment Order”** means an order of the Court to be sought in the Receivership Proceeding, appointing Richter as Receiver of all of the assets, property and undertaking of the Vendor, including the Purchased Assets, pursuant to section 101 of the CJA, such Order to be in form and content satisfactory to the Purchaser.

**“Approval and Vesting Order”** means an approval and vesting order of the Court, to be sought in the Receivership Proceeding, in form and content substantially in accordance with **Schedule “D”**, approving this Agreement and the transactions contemplated hereby, vesting in and to the Purchaser the Purchased Assets free and clear of and from any and all Claims and Encumbrances other than Permitted Encumbrances, such Order to be in form and content satisfactory to the Purchaser.

**“Assigned Contract”** means a contract to which the Vendor is a party that is assigned to the Purchaser at Closing, including, without limitation, all contracts between the Vendor and Active Students who agree to transfer to the Purchaser.

**“BIA”** means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, C. B-3, of Canada as the same may be amended from time to time.

**“Business Day”** means any day of the year, other than a Saturday, Sunday or any day on which Canadian chartered banks are closed for business in the City of Toronto, Ontario.

**“CCAPP”** means the Canadian Council for Accreditation of Pharmacy Programs.

**“CHIMA”** means the Canadian Health Information Management Association.

**“CSOT”** means the Canadian Society of Orthopaedic Technologists.

**“Claims”** has the meaning provided for in the form of Approval and Vesting Order on Schedule “D” to this Agreement.

**“Closing”** means the closing of the Transaction in accordance with this Agreement;

**“Closing Date”** means August 15, 2017 or such date as is agreed to by the parties (as evidenced in writing) in order to reflect the timing and other considerations more particularly described in Article 11;



**“Consent Required Agreement”** means an agreement to which the Vendor is a party which is not assignable in whole or in part without the consent, approval or waiver of the counterparty thereto.

**“Designated Occupancy Costs”** has the meaning provided for in Section 9.4.

**“EFC Trade”** means EFC Trade Inc., a corporation incorporated under the laws of the Province of Ontario.

**“Employee”** and **“Employees”** means an Employee of the Vendor.

**“Employee Plans”** means the policies described in the Employee Benefits Handbook dated May 1, 2015 with respect to the Vendor.

**“Encumbrances”** has the meaning provided for in the form of Approval and Vesting Order on Schedule “D” to this Agreement.

**“Governmental Entity”** means: (a) any governmental or public department, central bank, court, minister, governor-in-council, cabinet, commission, tribunal, board, bureau, agency, commissioner or instrumentality, whether international, multinational, national, federal, provincial, state, county, municipal, local, or other; (b) any subdivision or authority of any of the above; and (c) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the above.

**“Intellectual Property”** means domestic and foreign: (a) patents, applications for patents and reissues, divisions, continuations, renewals, extensions and continuations-in-part of patents or patent applications; (b) proprietary and non-public business information, including inventions (whether patentable or not), invention disclosures, improvements, discoveries, trade secrets, confidential information, know-how, methods, processes, designs, technology, technical data, schematics, formulae and customer lists, and documentation relating to any of the foregoing; (c) copyrights, copyright registrations and applications for copyright registration; (d) mask works, mask work registrations and applications for mask work registrations; (e) designs, design registrations, design registration applications and integrated circuit topographies; (f) trade names, business names, corporate names, domain names, website names and world wide web addresses, common law trade-marks, trade-mark registrations, trade mark applications, trade dress and logos, and the goodwill associated with any of the foregoing; (g) computer software and programs (both source code and object code form), all proprietary rights in the computer software and programs and all documentation and other materials related to the computer software and programs; and (h) any other intellectual property and industrial property.

**“Laws”** means any principle of common law and all applicable: (a) laws, constitutions, treaties, statutes, codes, ordinances, orders, decrees, rules, regulations and by-laws of any Governmental Entity; (b) judgments, orders, writs, injunctions, decisions, awards and directives of any Governmental Entity; and (c) to the extent

that they are treated as binding by the Governmental Entity, have the force of law, policies, guidelines, notices and protocols of any Governmental Entity.

“**LSUC**” means the Law Society of Upper Canada.

“**MAESD**” means Ministry of Advanced Education and Skills Development.

“**Ordinary Course**” means, with respect to the Vendor, an action substantially in accordance with the recent past practices of the Vendor and taken in the ordinary course of the normal day-to-day business and operations of the Vendor, provided that such action is in compliance, in all material respects, with applicable Laws.

“**Permitted Encumbrances**” means those Encumbrances listed on **Schedule “A”**.

“**Person**” includes an individual, partnership, association, body corporate, trustee, executor, administrator, legal representative, government (including any Governmental Entity) or any other entity, whether or not having legal status.

“**Receivership Proceeding**” means the Court proceeding to be commenced by the application by ECC for the Appointment Order and the Approval and Vesting Order.

“**SASY**” means all or any portion of the binary computer software programs and related source code, for the software program known colloquially as “SASY”, being a student administration system designed to manage the data relevant to a student from first inquiry to alumni status.

“**Tax**” means: (a) any and all taxes, duties, fees, excises, premiums, assessments, imposts, levies and other charges or assessments of any kind whatsoever imposed by any Governmental Entity, whether computed on a separate, consolidated, unitary, combined or other basis, including those levied on, or measured by, or described with respect to, income, gross receipts, profits, gains, windfalls, capital, capital stock, production, recapture, transfer, land transfer, license, gift, occupation, wealth, environment, net worth, indebtedness, surplus, sales, goods and services, harmonized sales, use, value-added, excise, special assessment, stamp, withholding, business, franchising, real or personal property, health, employee health, payroll, workers’ compensation, employment or unemployment, severance, social services, social security, education, utility, surtaxes, customs, import or export, and including all license and registration fees and all employment insurance, health insurance and government pension plan premiums or contributions; (b) all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Entity on or in respect of amounts of the type described in clause (a) above or this clause (b); (c) any liability for the payment of any amounts of the type described in clauses (a) or (b) as a result of being a member of an affiliated, consolidated, combined or unitary group for any period; and (d) any liability for the payment of any amounts of the type described in clauses (a) or (b) as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any party.

**“Time of Closing”** means 12:01 a.m. (Toronto time) on the Closing Date.

**“Transferred Employees”** means those Employees who accept the Purchaser’s offer of employment given in accordance with this Agreement.

**“Wellington Premises”** means the premises leased by the Vendor at 1060 Wellington Road, London, Ontario, from which the Business is operated.

## **Section 1.2 Other Defined Terms.**

In addition to the defined terms in Section 1.1, each of the following capitalized terms will have the meaning ascribed thereto in the corresponding Section:

<b>TERM</b>	<b>REFERENCE</b>
Assumed Contract Liabilities .....	Section 4.1(c)
Assumed Liabilities .....	Section 3.1
Books and Records .....	Section 2.1(g)
Business .....	Recitals
CJA .....	Recitals
Closing .....	Section 12.1(a)
Court .....	Recitals
ECC .....	Recitals
ETA .....	Section 6.1
Excluded Assets .....	Section 2.2
HST .....	Section 6.1
Occupancy Period .....	Section 9.4
LOI .....	Recitals
Material Adverse Effect .....	Section 11.2(i)
Notice .....	Section 14.1
OSAP .....	Section 8.1(f)
Programs .....	Section 8.1(f)
Purchased Assets .....	Section 2.1
Purchase Price .....	Section 5.1
Purchaser .....	Appearances (page1)
Receiver .....	Recitals
Receiver’s Certificate .....	Section 12.1(e)
Richter .....	Recitals
Transaction .....	Recitals
TCAF .....	Section 2.1(p)
Transfer Taxes .....	Section 6.2
Vendor .....	Appearances (page 1)

**Section 1.3      Date for Any Action.**

If the date on which any action is required to be taken hereunder by a party is not a Business Day, such action will be required to be taken on the next succeeding day which is a Business Day.

**Section 1.4      Gender and Number.**

Any reference in this Agreement to gender includes all genders. Words importing the singular number only will include the plural and vice versa.

**Section 1.5      Headings, etc.**

The provision of a Table of Contents, the division of this Agreement into Articles and Sections and the insertion of headings are for convenient reference only and are not to affect its interpretation.

**Section 1.6      Currency.**

All references in this Agreement to dollars or to \$ are expressed in Canadian currency unless otherwise specifically indicated.

**Section 1.7      Certain Phrases, etc.**

In this Agreement (a) the words “including”, “includes” and “include” mean “including (or includes or include) without limitation”, and (b) the phrase “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”. Unless otherwise specified, the words “Article” and “Section” and “Subsection” followed by a number mean and refer to the specified Article or Section or Subsection of this Agreement.

**Section 1.8      Schedules.**

The schedules attached to this Agreement form an integral part of this Agreement for all purposes of it.

**ARTICLE 2  
PURCHASED ASSETS**

**Section 2.1      Purchased Assets.**

Subject to the terms and conditions of this Agreement, except for the Excluded Assets, the Vendor agrees to sell, assign and transfer to the Purchaser and the Purchaser agrees to purchase from the Vendor, on the Closing Date, effective as of the Time of Closing, or such later time as is contemplated by this Agreement, all of the Vendor’s right title and interest in all undertakings, rights, properties and assets of the Vendor, including any and all assets that relate to or are used in connection with the operation of the Business (collectively,

the “**Purchased Assets**”), including but not limited to the following assets, all free and clear of all Encumbrances (other than Permitted Encumbrances):

- (a) program curricula, including all government submission for program approvals, program materials, course outlines, delivery models and schedules, course teaching notes and lecture materials, presentations, tests and exams, documentation related to work term and practical components, partnership agreements with internship hosts, classroom and lab equipment and supply lists;
- (b) leasehold improvements, to the extent that they are transferable;
- (c) furniture and fixtures;
- (d) teaching supplies (including all text books and classroom supplies and materials) and equipment required to deliver programs;
- (e) computer, phone and information technology equipment, including the servers located in Winnipeg, Manitoba;
- (f) computer software required to deliver programs;
- (g) all information in any form relating to, or used in connection with, the Business, including books of account, financial and accounting information and records, personnel records, sales and purchase records, customer and supplier lists, business reports, operating guides and manuals, plans and projections, marketing and advertising materials and all other documents, files, research materials, correspondence and other information (whether in written, printed, electronic or computer printout form, or stored on computer discs or other data and software storage and media devices) (the “**Books and Records**”), provided, however, that the Books and Records will not include the minute books of the Vendor;
- (h) all Accounts Receivable;
- (i) student data, including all data contained in the SASY student records system;
- (j) all telephone and facsimile numbers and internet domain names used in connection with the Business, including [www.westervelt.ca](http://www.westervelt.ca) and [www.westerveltcollege.com](http://www.westerveltcollege.com);
- (k) all Intellectual Property owned or licensed by the Vendor, including trademarks, logos, and rights to the use of the name “Westervelt College”;
- (l) prepaid expenses, to the extent transferrable;
- (m) the benefit of all of the Assigned Contracts set out in Schedule “B” hereto;

- (n) all orders, authorizations, approvals, licenses or permits of a Governmental Entity, owned, held or used by the Vendor, to the extent transferrable;
- (o) all claims, actions, causes of action, indemnities, warranties, guarantees, rights of recovery, rights of set-off and rights of recoupment of the Vendor;
- (p) all Training Completion Assurance Fund (“TCAF”) premiums including TCAF founding premiums;
- (q) all proceeds payable to the Vendor upon any policies of insurance; and
- (r) the goodwill of the Business, including the exclusive right of the Purchaser to (i) represent itself as carrying on the Business in continuation of and in succession to the Vendor, and (ii) use any words indicating that the Business is carried on.

## **Section 2.2 Excluded Assets.**

Subject to the provisions of the balance of this Agreement, the Purchased Assets will not include any of the following (collectively, the “**Excluded Assets**”):

- (a) cash on hand, cash equivalents and bank deposits;
- (b) the \$554,000 TCAF financial security in favour of the Superintendent of Private Career Colleges;
- (c) (subject strictly to the provisions of Section 9.4) the lease to the Wellington Premises (the “**Wellington Lease**”);
- (d) Intellectual Property relating to the SASY student records system software, including all source code and similar such Intellectual Property; and
- (e) any other any assets of the Vendor specifically excluded by the Purchaser and specifically identified in writing to the Vendor prior to Closing.

For greater certainty, the Purchase Price will not be adjusted or set off against for Excluded Assets.

## **ARTICLE 3 ASSUMED LIABILITIES**

### **Section 3.1 Assumed Liabilities.**

Subject to the Closing, and except for the Excluded Liabilities, the Purchaser agrees to assume, as of the Time of Closing, no obligations or liabilities other than solely the following Vendor’s obligations and liabilities relating to:



- (a) the provision of Programs to complete the training of all Active Students of Westervelt College, who agree to transfer to the Purchaser, at the Wellington Premises and/or such other campuses as approved by Superintendent of Private Career Colleges and other regulators, substantially in accordance with the terms of the transferred Active Students' existing contracts with the Vendor;
- (b) the maintenance of student records for Westervelt College;
- (c) TCAF requirements for ongoing operation of the Business after the Closing Date;
- (d) refunds becoming due or owing after Closing to Active Students who have signed a transfer agreement with the Purchaser as contemplated by Section 11.2(f);
- (e) Assumed Contract Liabilities; and
- (f) any other liability which the Purchaser agrees in writing with the Vendor to assume on or before the Closing Date,

(collectively, the “**Assumed Liabilities**”).

### **Section 3.2 Excluded Liabilities.**

Other than the Assumed Liabilities, the Purchaser will not assume and will have no obligation to discharge, perform or fulfill any liability or obligation of the Vendor or in connection with the Purchased Assets or the Business, whether known, unknown, direct, indirect, absolute, contingent or otherwise.

## **ARTICLE 4 ASSIGNMENT AND ASSUMPTION OF CONTRACTS**

### **Section 4.1 Assignment of Assigned Contracts.**

- (a) The Purchaser is under no obligation to take on third party contract obligations, unless otherwise stated, but will, with the assistance of the Vendor, work to identify any vendor relationships, commercial partnerships or affiliations that the Purchaser may wish to take over in order to ensure smooth continuation of operations. Both parties agree to use their commercially reasonable efforts to work together to identify all vendor relationships, commercial partnerships or affiliations and clearly identify those that are to be assigned to the Purchaser and those that are not to be assigned to the Purchaser.
- (b) On or prior to the Closing Date, the Purchaser will identify to the Vendor in writing any contract or agreement to which the Vendor is a party as an

Excluded Asset or an Assigned Contract. Any contract or agreement to which the Vendor is a party that is not so designated will be deemed to be an Excluded Asset.

- (c) Subject to Section 4.2, the Vendor will be deemed to have assigned the benefit of each Assigned Contract effective on the Time of Closing and the Purchaser will be deemed to have assumed, effective the Time of Closing, all of the Vendor's obligations and liabilities contained in such Assigned Contract arising in respect of the period commencing after the Time of Closing and not related to any default existing at, prior to or as a consequence of the Closing or of the assignment of such Assigned Contract (collectively, the "**Assumed Contract Liabilities**"), in each case without payment of any additional consideration. Such contract will become an Assigned Contract at the Time of Closing.

#### **Section 4.2      Consent Required Agreements.**

- (a) Nothing in this Agreement will be construed as an agreement to assign any Consent Required Agreement, unless the consent, approval or waiver required to assign such Consent Required Agreement has been given.
- (b) From the date of this Agreement until Closing, the Vendor and the Purchaser will use commercially reasonable efforts to obtain the consents, approvals and waivers required for the assignment of the Consent Required Agreements.

### **ARTICLE 5 PURCHASE PRICE**

#### **Section 5.1      Deposit**

Upon execution of this Agreement, the Purchaser will pay the sum of \$50,000 to Richter, in trust, as a deposit (the "**Deposit**") to be held in a non-interest bearing account until the Closing Date, and paid, on Closing, in accordance with Section 5.3 or otherwise dealt with in accordance with Article 13 (including Section 13.1).

#### **Section 5.2      Purchase Consideration.**

- (a) The consideration to be given by the Purchaser to the Vendor is comprised of the following:
  - (i) a cash payment of one dollar (\$1.00); and
  - (ii) the assumption of the Assumed Liabilities.
- (b) In accordance with Section 5.3, the consideration to be given by the Vendor to the Purchaser is a cash payment of seventy-five thousand dollars (\$75,000),



which payment, for greater certainty, is in addition to the return of the Deposit pursuant to Section 5.3(b).

**Section 5.3      Return of Deposit and Payment of Cash Purchase Consideration.**

- (a) The net cash purchase consideration will be paid on Closing by the Vendor to the Purchaser by bank draft or wire transfer, or as the parties may otherwise agree to in writing.
- (b) The Deposit will be returned on Closing by the Receiver to the Purchaser, without any interest thereon.

**ARTICLE 6  
TAX MATTERS**

**Section 6.1      HST Elections.**

The Purchaser and the Vendor will jointly elect under subsection 167(1) of the *Excise Tax Act* (Canada) (the “**ETA**”) with respect to harmonized sales tax (“**HST**”), in the form prescribed for the purposes of each such provision, in respect of the sale and transfer of the Purchased Assets and the Purchaser will file such elections with the applicable tax authorities within the time and in the manner required by the applicable Law.

**Section 6.2      Transfer Taxes.**

Subject to any available elections or exemptions contemplated by Section 6.1, the Purchaser will be liable for and will pay all federal and provincial sales taxes and all other similar sales taxes or other like charges of any jurisdiction (“**Transfer Taxes**”) (for greater certainty, excluding all income or capital taxes of the Vendor) properly payable by the Purchaser in connection with the transfer of the Purchased Assets by the Vendor to the Purchaser.

**Section 6.3      Indemnity for Transfer Taxes.**

The Purchaser will indemnify and hold the Vendor (and its, directors, officers and employees) harmless from and against any taxes payable under the ETA and or any applicable provincial legislation and in any case any penalty or interest in respect thereof which may be payable by or assessed against the Vendor as a result of or in connection with the Vendor’s failure to collect the applicable taxes payable under the ETA or applicable provincial legislation on the sale of the Purchased Assets to the Purchaser, including any Transfer Taxes assessed as a result of any failure or refusal by the responsible tax authority to accept any election made under Section 6.1 or on the basis that such election was inapplicable, invalid or not properly made.

## ARTICLE 7 EMPLOYEE MATTERS:

### Section 7.1      **Offers to Employees and Termination of, and Payments to, Employees**

- (a) Between the dates of: (i) granting of the Appointment Order and the Approval and Vesting Order; and (ii) the Closing Date, the Purchaser will offer employment or contracts to such Employees as the Purchaser determines, in its sole and unfettered discretion, are required by the Purchaser, in order to allow the Purchaser to satisfy the teach-out obligations assumed pursuant to Section 3.1(a).
- (b) At least five (5) Business Days prior to the Closing Date, the Purchaser will identify to the Vendor those Employees to whom the Purchaser intends to offer employment as at the Closing Date and on the Closing Date the Purchaser will identify those Employees (the “**Transferred Employees**”) who have accepted employment with the Purchaser as at the Closing Date. Any offer of employment made by the Purchaser will be on terms and conditions determined by the Purchaser in its sole discretion.
- (c) The Vendor will terminate its employment of all Employees effective as at the first day prior to the Closing Date. The Vendor will remain liable to the Employees for all amounts of any nature owing to such Employees (including wages and all other remuneration, vacation pay, termination pay or severance pay) and the Vendor shall account for all withholdings attributable to any such amounts paid. For greater certainty, it is expressly acknowledged and agreed that (i) the Purchaser shall have no responsibility for any amounts pertaining to any Employees with respect to the period prior to Closing (ii) the Vendor will remain liable to Transferred Employees for all amounts pertaining to vacation pay and all other amounts owing to the Transferred Employees as at the Closing Date.

### Section 7.2      **Employee Plans.**

With effect as of the Closing Date, the Vendor will terminate the Employee Plans.

## ARTICLE 8 REPRESENTATIONS AND WARRANTIES

### Section 8.1      **Vendor’s Representations and Warranties.**

The Vendor represents and warrants as follows to the Purchaser at the date of this Agreement and at the Closing Date and acknowledges and confirms that the Purchaser is relying upon such representations and warranties in connection with the purchase of the Purchased Assets and the assumption of the Assumed Liabilities:

- (a) **Incorporation and Qualification.** The Vendor is a corporation duly incorporated and existing under the laws of its jurisdiction of incorporation and has the corporate power to enter into and perform its obligations under this Agreement. The Vendor is duly licensed, registered and/or qualified with the appropriate Governmental Entities, including the Superintendent of Private Career Colleges and the MAESD.
- (b) **Authorization.** The execution and delivery of and performance by Vendor of this Agreement and the consummation of the transactions contemplated by it have been authorized by all necessary corporate action on the part of the Vendor. The Receiver will have, pursuant to the Receivership Order and subject to the Approval and Vesting Order, good and sufficient power, authority to complete the Transaction on behalf of the Vendor.
- (c) **Execution and Binding Obligation.** This Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding agreement of the Vendor, enforceable against it in accordance with its terms, subject only to the issuance of the Approval and Vesting Order.
- (d) **Residence.** The Vendor is not a non-resident of Canada for purposes of the *Income Tax Act* (Canada).
- (e) **Registration.** The Vendor is duly registered under Subdivision (d) of Division V of Part IX of the ETA and will provide its registration number to the Purchaser within five (5) Business Days.
- (f) **Programs.** The Vendor is approved by the Superintendent of Private Career Colleges to deliver the diploma programs set out on **Schedule "C"** (the "**Programs**"). The Vendor has existing Ontario Student Assistance Program ("**OSAP**") designation and all the Programs are approved for OSAP and have valid and current OSAP codes. The Vendor is also approved to sell to international students and has received approval under the Ontario International Student Program. The Vendor owns all curriculum and Intellectual Property for all the Programs.
- (g) **Employees.** None of the Employees are subject to a collective agreement of any nature whatsoever. No proceedings of any nature whatsoever (including any union organizing or formation activities) have been instituted with respect to the Employees or any such collective agreement.

## **Section 8.2 Purchaser's Representations and Warranties.**

The Purchaser represents and warrants as follows to the Vendor at the date of this Agreement and at the Closing Date and acknowledges and confirms that the Vendor is relying on such representations and warranties in connection with the sale by the Vendor of the Purchased Assets:

- (a) **Incorporation and Qualification.** The Purchaser is a corporation duly incorporated and existing under the laws of its jurisdiction of incorporation. The Purchaser has the power to enter into and perform its obligations under this Agreement.
- (b) **Corporate Authority.** The execution and delivery of and performance by the Purchaser of this Agreement and the consummation of the transactions contemplated by it have been authorized by all necessary corporate action on the part of the Purchaser.
- (c) **Execution and Binding Obligation.** This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding agreement of the Purchaser enforceable against it in accordance with its terms, subject only, as of the Closing Date, to the Approval and Vesting Order.
- (d) **Registration.** The Purchaser is, or prior to Closing will be, registered under Part IX of the ETA.

**Section 8.3      No Other Representations or Warranties of the Vendor; “As Is, Where Is”.**

- (a) The representations and warranties given by the Vendor in Section 8.1 are the sole and exclusive representations and warranties of the Vendor in connection with this Agreement and the transactions contemplated by it. Except for the representations and warranties given by the Vendor in Section 8.1, the Purchaser did not rely upon any representations or warranties, whether express or implied (by operation of law or otherwise), oral or written, legal, equitable, conventional, collateral or otherwise, regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith.
- (b) The Purchaser hereby acknowledges and agrees as follows:
  - (i) except as expressly set forth in this Agreement, the Vendor makes no representations, or warranties in favour of the Purchaser concerning the Purchased Assets, which the Purchaser acknowledges are being acquired on an “as is, where is” basis, whether express or implied, statutory or collateral, arising by operation of Laws or otherwise, including express or implied warranties of merchantability, fitness for a particular purpose, title, description, quantity, condition or quality, and that any and all conditions and warranties expressed or implied by the *Sale of Goods Act* (Ontario) or other Laws do not apply to the Transaction and are hereby waived by the Purchaser; and
  - (ii) the Vendor provides no warranty or condition, expressed or implied, as to the condition of the Wellington Premises and the Vendor will not be responsible for any personal injury sustained by any servant, agent,

licensee, employee, invitee or customer of the Purchaser who may be at the Wellington Premises during the Occupancy Period, all risks of any such injury being hereby assumed by the Purchaser.

## **ARTICLE 9 COVENANTS**

### **Section 9.1 Conduct of Business in the Ordinary Course.**

The Vendor will use commercially reasonable efforts to conduct the Business in the Ordinary Course and ensure that normal course operations and student training continue up until the Closing Date, except only to the extent required to allow the Vendor to comply with any of its obligations under this Agreement.

### **Section 9.2 Access prior to Closing.**

Subject to applicable Laws, the Vendor will (a) upon reasonable notice, permit the Purchaser and its employees, agents, counsel, accountants or other representatives, to have reasonable access during normal business hours to or will provide such persons with electronic copies of (i) the Purchased Assets, including all Books and Records whether retained by the Vendor or otherwise, (ii) all contracts and leases to which the Vendor is a party, (iii) personnel files relating to the Employees (which will be maintained in strict confidence by the Purchaser and only used for the purpose of considering and/or making employment offers to Employees), (iv) the senior personnel of the Vendor, so long as the access does not unduly interfere with the ordinary conduct of the Business, and (v) the Employees; and (b) furnish to the Purchaser or its employees, agents, counsel, accountants or other such representatives such financial and operating data and other information with respect to the Purchased Assets as the Purchaser from time to time reasonably requests.

### **Section 9.3 Actions to Satisfy Closing Conditions.**

The Vendor and the Purchaser agree to take all such actions as are within their respective control and will use their respective commercially reasonable efforts to take, or cause to be taken, all other actions and make all such other payments, filings and submissions, and obtain such consents (including consents required by Consent Required Agreements to enable the assignment thereof by the Vendor to the Purchaser) and authorizations and approvals (including the approvals set out in Section 11.1(d), which are necessary or advisable in order to fulfil their respective obligations under this Agreement and ensure that the Transaction closes on the Closing Date, as the case may be. Without limiting the forgoing:

- (a) the Vendor and Purchaser agree to cooperate in communicating with and sharing relevant information with the following regulatory bodies:
  - (i) the Private Career Colleges Branch of MAESD;
  - (ii) the OSAP branch of MAESD; and

- (iii) program delivery regulators, accrediting bodies and partners, including those listed in Section 11.1(d);
- (b) the Vendor and the Purchaser agree to work cooperatively to transfer educational delivery partnerships, including any approvals that may be required for the continued delivery of programs at the current standards, including the approvals set out in Section 11.1(d) such that the Purchaser will have the ability to continue to deliver all program curricula acquired following the Closing Date; and
- (c) the Vendor and the Purchaser agree to work cooperatively to notify Active Students of the Transaction and the intended transfer of programs, where applicable, to the Medix London campus, and, upon such notice, to obtain the agreements to transfer contemplated by Section 11.2(f),

provided all meetings or discussions with third parties will be coordinated through a designated representative of the Vendor.

#### **Section 9.4 Wellington Premises**

- (a) The Vendor hereby grants the Purchaser a license to access the Wellington Premises for the period from the Closing Date through to September 30, 2017 or such earlier date as the Purchaser may choose to vacate the Wellington Premises (the “**Occupancy Period**”), during which term the Vendor will pay all rent and all other costs (the “**Designated Occupancy Costs**”) described in Schedule “F” due under the lease to the Wellington Premises and not terminate such lease. It is expressly acknowledged and agreed that the Appointment Order will except from any stay of proceedings created thereby, the power to make any assignment in bankruptcy by the Vendor, and that the Vendor, with the support of ECC, will remain authorized to make such an assignment if necessary to ensure access, by the Purchaser, to the Wellington Premises for the Occupancy Period. Nothing in this Section 9.4(a) will be construed to make the relationship between the Vendor (or the Receiver) and the Purchaser one of landlord and tenant, joint venture, partners or anything other than vendor and purchaser of the Purchased Assets. Nothing in this Section 9.4(a) will be construed to make the relationship between the Purchaser and the landlord of the Wellington Premises one of landlord and tenant. Nothing in this Section 9.4(a) will affect the Vendor’s or the Receiver’s right of access to the Wellington Premises for the purposes of receiving, preserving and protecting Excluded Assets or otherwise satisfying their contractual or statutory duties. The Purchaser may exercise its right of access to the Premises through its employees, agents or licensees.

#### **Section 9.5 Removal of Purchased Assets**

- (a) At its own cost and expense, the Purchaser will be solely responsible for the checkout, dismounting, dismantling and removal of the Purchased Assets



from the Wellington Premises, which checkout, dismounting, dismantling and removal will be done with the care that a prudent tenant would use, by reputable and competent personnel, in a good and workmanlike manner, and in compliance with all laws. At its own cost and expense, the Purchaser will leave the Wellington Premises in an orderly, clean, sanitary and broom swept condition and will be required to remedy or repair any physical damage or other condition resulting from the checkout, dismounting, dismantling and removal of the Purchased Assets. The Purchaser will not be obligated to remove any Excluded Assets and will not be required to remedy any condition existing prior to the Closing.

- (b) The Vendor provides no warranty or condition, expressed or implied, as to the condition of the Wellington Premises. Neither the Vendor nor the Receiver will be responsible for any personal injury sustained by any servant, agent, licensee, employee, invitee or customer of the Purchaser who may be on the Premises. All risks of any such injury are hereby assumed by the Purchaser.
- (c) As to its obligations provided in Section 9.5(a) and Section 9.5(b), the Purchaser hereby indemnifies and saves harmless the Vendor and the Receiver from and against all manner of claims, demands and liabilities of any nature whatsoever arising therefrom, including the access to and/or removal of the Purchased Assets from the Premises by the Purchaser and/or its employees and agents.

#### **Section 9.6      Student Records**

For a period of six (6) months after the Closing Date, the Vendor will provide the Purchaser with access to the student records management system, including the SASYS, to assist in the full transfer of all student data.

#### **Section 9.7      Access to Books and Records**

For a period of six (6) years from the Closing Date or for such longer period as may be required by Law, the Purchaser will use its commercially reasonable efforts, without any liability to the Vendor, to retain all Books and Records. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement, the Vendor, the Receiver, any bankruptcy trustee appointed in respect of the Vendor and its representatives will have the right to inspect and to make copies (at its own expense) of them upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser. The Purchaser has the right to have its representatives present during any such inspection.

#### **Section 9.8      Use of Business Names and Brand.**

- (a) Following the Closing Date the Vendor will refrain from using any business names related to the Business in any insolvency proceedings, except as required by any Laws or by any Governmental Entity with jurisdiction under

the BIA. Immediately following the Closing Date, the Vendor will change its legal name from "WCI Westervelt College Inc." to its corporate number.

- (b) The Purchaser will use reasonable commercial efforts to utilize the Westervelt name and branding for any other private career college campuses owned by the Purchaser as at the Closing Date and, thereafter, issue Westervelt diplomas to graduating students.

#### **Section 9.9 Continuation of Programs.**

The Purchaser will, post-Closing, continue to provide (at the Wellington Premises and/or such other campuses as approved by the Superintendent of Private Career Colleges and other regulators) the Programs to Active Students who agree to transfer to the Purchaser, to allow each such transferred Active Student to complete his or her training, on substantially the terms of the transferred Active Students' existing contracts with the Vendor.

#### **Section 9.10 Confidentiality.**

All information and documents provided by either party to the other and all matters pertaining to this Agreement and the Transaction will be kept strictly confidential, and neither the Vendor nor the Purchaser will disclose the negotiations regarding the Transaction or any of the terms and conditions thereof except: (a) for disclosure to employees, officers and directors of the Vendor, Purchaser or Receiver, as necessary; (b) for disclosure to accountants, investment bankers, legal counsel, consultants, agents or financing sources as contemplated herein; (c) as required by Law; or (d) as the parties agree in writing in connection with ongoing due diligence. To the extent that disclosure becomes legally required, the Vendor or the Purchaser, as the case may be, will be given a reasonable opportunity to review such proposed disclosure and the other party will maintain confidentiality to the greatest extent permissible under such Law.

#### **Section 9.11 Security.**

- (a) The Vendor will maintain the \$554,000.00 TCAF financial security with the Superintendent of Private Career Colleges until September 30, 2017, by which date the Purchaser shall have posted replacement security satisfactory to the Superintendent of Private Career Colleges.
- (b) ECC will maintain the existing OSAP financial security, in the form of a \$33,250.00 letter of credit issued by the Royal Bank of Canada, or the financial equivalent thereof until the date on which such security is no longer required by OSAP. The Purchaser will promptly notify ECC of any communications with OSAP in connection with such letter of credit or security, and promptly provide ECC with copies of any such communications made in writing.



## ARTICLE 10 RISK OF LOSS

### Section 10.1      **Risk of Loss.**

- (a) Until the Time of Closing or the applicable Assignment Date the Purchased Assets will remain at the risk of the Vendor.
- (b) If all or any portion of the Purchased Assets are damaged or destroyed or appropriated, expropriated or seized by any Person on or prior to the Time of Closing or the applicable Assignment Date, the Vendor will notify the Purchaser promptly in writing of such fact, and if such acts or events have a Material Adverse Effect, then the Purchaser may, at its option, terminate this Agreement.
- (c) If the Purchased Assets that are damaged or destroyed or appropriated, expropriated or seized by any Person on or prior to the Closing Date or the applicable Assignment Date, in the aggregate do not have a Material Adverse Effect, at the Purchaser's option:
  - (i) All proceeds of insurance or compensation for expropriation or seizure in respect thereof will be payable to the Purchaser, all amounts paid to the Vendor prior to the Closing Date will be included in the Purchased Assets and transferred to the Purchaser on Closing, and all right and claim of the Vendor to any such amounts not paid by the Closing Date will be assigned to the Purchaser;
  - (ii) The Purchase Price will be reduced by an amount equal to estimated value of those Purchased Assets that are damaged, destroyed, appropriated or expropriated; or
  - (iii) All proceeds of insurance or compensation for expropriation or seizure in respect thereof will be payable to the Purchaser, all amounts paid to the Vendor prior to the Closing Date will be included in the Purchased Assets and transferred to the Purchaser on Closing, and all right and claim of the Vendor to any such amounts not paid by the Closing Date will be assigned to the Purchaser, and the Purchase Price will be reduced by an amount equal to the amount by which the estimated value of those Purchased Assets exceeds such amount.
- (d) The Vendor will consult with the Purchaser prior to making a claim against any applicable insurance policy and will act reasonably and bona fide in respect thereof and in a manner consistent with the Purchaser's interest in the Business and the Purchased Assets. The Vendor will make, or cause to be made, by the Closing Date, the necessary claims under all applicable insurance policies and will assign to the Purchaser all remaining insurance proceeds, including business interruption insurance proceeds, which are or

may become receivable by the Vendor in respect of any such loss, damage or destruction.

## ARTICLE 11 CONDITIONS OF CLOSING

### Section 11.1      **Conditions for the Benefit of both Parties.**

Closing of the Transaction is subject to the following conditions for the benefit of each of the Purchaser and the Vendor, such conditions to be fulfilled or performed on or before the Closing Date or such earlier date as specified in this Section 11.1:

- (a)    **No Court Orders.** No provision of any applicable Law and no judgment, injunction, order or decree that prohibits the consummation of the purchase of the Purchased Assets pursuant to this Agreement will be in effect or threatened.
- (b)    **Appointment Order.** Subsequent to the satisfaction of the condition described in Subsection 11.1(d) – and subject to subsection 11.1(e) - the Appointment Order and the Approval and Vesting Order will have been issued and entered by no less than fifteen (15) days prior to the Closing Date and will not have been stayed, amended, appealed, modified, reversed or dismissed and no such proceedings shall have been threatened as at the Closing Date.
- (c)    **Approval and Vesting Order.** In accordance with subsection 11.1(b), the Approval and Vesting Order will have been issued and entered by no less than fifteen (15) days prior to the Closing Date and will not have been stayed, amended, appealed, modified, reversed or dismissed and no such proceedings shall have been threatened as at the Closing Date.
- (d)    **Superintendent of PCC Approval in Principle of Purchaser.** The Superintendent of Private Career Colleges will have received and reviewed this Agreement prior to the motion to seek (i) the Appointment Order and (ii) the Approval and Vesting Order on terms acceptable to each of the Vendor and the Purchaser. Without limiting the generality of the foregoing provisions of this Section 11.1(d), pursuant to such review, the Superintendent of Private Career Colleges will have approved the Purchaser's application for registration in principle based on its current understanding, including the processing of:
  - (i)    approval to continue to deliver, post-Closing, all the Programs to Active Students who consent to transfer to the Purchaser;
  - (ii)   approval to continue Business operations in the Wellington Premises during the Occupancy Period; and

(iii) approval to transfer all Programs and existing Wellington Premises operations to the current Medix London campus.

(e) **Outside Date.** Closing must occur on or before August 15, 2017.

## **Section 11.2 Conditions for the Benefit of the Purchaser.**

The purchase and sale of the Purchased Assets is subject to the following conditions to be fulfilled or performed on or before the Closing Date, as determined by the Purchaser, acting reasonably, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser in its sole discretion:

- (a) **CCAPP Approval.** CCAPP will have granted the Purchaser approval to relocate to the current Medix London campus all Active Students in the Vendor's pharmacy technician program who are scheduled to graduate after September 30, 2017.
- (b) **CHIMA Approval.** CHIMA will have granted the Purchaser approval to relocate to the current Medix London campus all Active Students in the Vendor's health information management program who are scheduled to graduate after September 30, 2017.
- (c) **LSUC Approval.** LSUC will have granted the Purchaser approval to relocate to the current Medix London campus all Active Students in the Vendor's paralegal program who are scheduled to graduate after September 30, 2017.
- (d) **CSOT Approval.** CSOT will have granted the Purchaser approval to relocate to the current Medix London campus all Active Students in the Vendor's orthopedic tech program who are scheduled to graduate after September 30, 2017.
- (e) **Non-Competition Agreement.** Each of the Vendor, ECC and Maxim Partners, LLC shall have provided a non-competition agreement in favour of the Purchaser in the form attached hereto as **Schedule "E"**.
- (f) **Student Transfer Agreements.** Active Students who (after receiving notice of the Transaction and the intended transfer of programs, where applicable, to the Medix London campus) agree to continue post-Closing will have entered into a transfer agreement with the Purchaser, in form and content satisfactory to the Purchaser.
- (g) **Covenants.** The Vendor will have fulfilled or complied with all covenants contained in this Agreement required to be fulfilled or complied with by it at or prior to the Closing Date, including Section 12.2.
- (h) **Representations and Warranties.** The representations and warranties of the Vendor contained in this Agreement will be true and correct as of the Closing

Date, with the same force and effect as if such representations and warranties had been made on and as of such date;

- (i) **Material Adverse Effect.** There will have been no change, effect, event or occurrence arising after the date of this Agreement that, individually or in the aggregate is, or would reasonably be expected to be, materially adverse to the Business or the Purchased Assets, as determined by the Purchaser, excluding (i) any adverse change, effect or circumstance relating generally to financial markets or general economic conditions, including any currency fluctuations, (ii) any adverse change, effect or circumstance caused by the announcement or pendency of this Agreement or the transactions contemplated by this Agreement, or (iii) the existence of the Receivership and any direct or indirect consequences thereof (“**Material Adverse Effect**”).
- (j) **Consent Required Agreements.** Consents, approvals or waivers required for the assignment of the Consent Required Agreements shall have been obtained, in form and content satisfactory to the Purchaser.

### **Section 11.3 Conditions for the Benefit of the Vendor.**

The purchase and sale of the Purchased Assets is subject to the following conditions to be fulfilled or performed on or before the Closing Date, which are for the exclusive benefit of the Vendor and which may be waived, in whole or in part, by the Vendor in its sole discretion:

- (a) **Representations and Warranties.** The representations and warranties of the Purchaser contained in this Agreement will be true and correct as of the Closing Date in all material respects, with the same force and effect as if such representations and warranties had been made on and as of such date; and
- (b) **Covenants.** The Purchaser will have fulfilled or complied with all covenants contained in this Agreement required to be fulfilled or complied with by it at or prior to the Closing Date, including delivery by the Purchaser of the documents and instruments contemplated by Section 12.3.

## **ARTICLE 12 CLOSING**

### **Section 12.1 General.**

- (a) The completion of the transactions of purchase, sale and assumption contemplated by this Agreement (the “**Closing**”) will take place at the offices of Aird & Berlis LLP, 181 Bay Street, Suite 1800, Toronto, ON, on the Closing Date at the Time of Closing, or at such other place or time as may be agreed upon in writing by the parties.

- (b) ECC will file application and/or motion materials seeking the issuance of the Receivership Order and the Approval and Vesting Order provided that the Purchaser has had a reasonable opportunity to review and approve:
  - (i) the form of Approval and Vesting Order;
  - (ii) the service list for the application and/or motion in advance of filing with the Court; and
  - (iii) all application/motion materials.
- (c) ECC will serve notice of the application or motion seeking the issuance of the Approval and Vesting Order on a service list comprised of all Persons with a known interest or potential interest in, or claims to, the Purchased Assets or any Person determined reasonably necessary by the Purchaser and will provide reasonable advance notice of any Court appearances so that the Purchaser may make arrangements to attend if it so desires.
- (d) The intention of the parties is that the Receivership Order and the Approval and Vesting Order be sought on the same day. Timing of filing and service of the application and/or motion materials will be determined jointly by the Vendor and Purchaser, acting reasonably, based on, among other considerations, the impact, if any, of the Receivership Order and/or Approval and Vesting Order on Persons on the Service List.
- (e) The parties hereby acknowledge and agree that the Receiver will be entitled in accordance with the Approval and Vesting Order to file a joint certificate, substantially in the form attached to the Approval and Vesting Order (the “**Receiver’s Certificate**”) confirming that all conditions of Closing have been satisfied or waived.

## **Section 12.2 Vendor’s Closing Deliveries.**

At the Closing, the Vendor will execute and/or deliver or cause to be delivered to the Purchaser the following:

- (a) the Purchased Assets, which will be delivered *in situ* wherever located as of the Closing;
- (b) a copy of the Approval and Vesting Order, as entered by the Court;
- (c) true and complete copies of all contracts and leases to which the Vendor is a party, including all agreements by which any rights to Intellectual Property have been granted or licensed to the Vendor, to the extent not delivered prior to Closing and copies of all consents obtained in relation to Consent Required Agreements;

- (d) the executed HST election as required pursuant to Article 6;
- (e) a certificate executed by a senior officer of the Vendor dated as of the Closing Date confirming that (i) all of the representations and warranties of the Vendor made in or pursuant to this Agreement will be true and correct in all material respects at the Time of Closing and with the same effect as if made at and as of such time, except as such representations and warranties may be affected by the occurrence of events or transactions contemplated or permitted by this Agreement and (ii) the Vendor has performed or complied with all its obligations and covenants under this Agreement;
- (f) all such bills of sale, assignments, instruments of transfer, deeds, assurances, consents and other documents as will be necessary to effectively transfer to the Purchaser the Purchased Assets;
- (g) all such other assurances, agreements, documents and instruments as may be reasonably required by the Purchaser to complete the transactions provided for in this Agreement;
- (h) duly executed copies of any assignments requested by the Purchaser to effect the transfer of the Intellectual Property;
- (i) a true and complete copy of the Receiver's Certificate executed by the Receiver (such Receiver's Certificate to be filed with the Court by the Receiver following Closing and a copy of such filed Receiver's Certificate will be delivered to the Purchaser promptly thereafter; and
- (j) the payment by the Vendor contemplated by Section 5.3(a).

### **Section 12.3 Purchaser's Closing Deliveries.**

At the Closing, the Purchaser will execute and/or deliver or cause to be delivered to the Vendor the following:

- (a) the payment contemplated by Section 5.2(a);
- (b) payment of any applicable Transfer Taxes; and
- (c) such executed Tax elections as are required pursuant to Article 6.

## **ARTICLE 13 NON-SATISFACTION OF CONDITIONS AND TERMINATION**

### **Section 13.1 Non-Satisfaction of Conditions**

If any condition set out in Article 11 is not satisfied or performed by the time specified therefor, the party for whose benefit the condition is inserted may:



- (a) waive compliance with the condition in whole or in part in its sole discretion by written notice to the other party and without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part; or
- (b) elect on written notice to the other party to terminate this Agreement before Closing.

### **Section 13.2 Termination of Agreement.**

If either the Vendor or the Purchaser validly terminates this Agreement pursuant to the provisions of Section 10.1 or Section 13.1:

- (a) each of the parties will be relieved of its duties and obligations arising under this Agreement, other than its obligations pursuant to Section 9.9, effective as of the date of such termination and such termination will be without liability to the Purchaser and the Vendor provided however that in no event will any termination of this Agreement relieve any party hereto of any liability for any willful or intentional breach of this Agreement by such party;
- (b) subject to Section 13.3, the Purchaser will be entitled to have the Deposit paid hereunder returned without deduction; and
- (c) subject to Section 13.3, neither party will have any right to specific performance or other remedy against, or any right to recover damages or expenses from, the other.

### **Section 13.3 Breach by the Purchaser.**

If the Purchaser fails to comply with the terms of this Agreement, the Vendor may by notice to the Purchaser elect to treat this Agreement as having been repudiated by the Purchaser. In that event, the Deposit made by the Purchaser will be forfeited to the Vendor and the Purchased Assets may be resold by the Vendor. Other than the Deposit, the Purchaser will have no further liability whatsoever, including for any deficiency arising upon any resale by the Vendor or any and all other damages or charges occasioned by or resulting from the default by the Purchaser.

## **ARTICLE 14 MISCELLANEOUS**

### **Section 14.1 Notices.**

Any notice, direction or other communication given regarding the matters contemplated by this Agreement (each a “**Notice**”) must be in writing, sent by personal delivery, courier or electronic mail and addressed:

- (a) to the Vendor (and / or to ECC and / or to Richter) at:

WCI Westervelt College Inc.  
 c/o Maxim Partners, LLC  
 105 East First Street, Suite 203  
 Hinsdale, Illinois 60521  
 U.S.A.

Attention: Gregg Wilson  
 Email: gregg@maximpartnersllc.com

and

ECC Education Consolidation Corporation  
 265 Notre Dame Avenue  
 Winnipeg, Manitoba R3B 1N9

Attention: Sean MacDonald  
 Email: smacdonald@ecceducation.ca

and

Richter Advisory Group Inc.  
 181 Bay Street, Suite 3320  
 Bay Wellington Tower  
 Toronto, Ontario M5J 2T3

Attention: Adam Sherman  
 Tel: (416) 488-2345  
 Fax: (416) 488-3765  
 Email: ASherman@Richter.ca

with a copy in the case of any Notice to any of the Vendor, ECC or Richter to:

Aird & Berlis LLP  
 Brookfield Place  
 181 Bay Street, Suite 1800  
 Toronto, Ontario M5J 2T9

Attention: Martin Kovnats  
 Tel: (416) 865-3419  
 Fax: (416) 863-1515  
 Email: mkovnats@airdberlis.com

- and to -

Attention: Sam Babe  
 Tel: (416) 865-7718



Fax: (416) 863-1515  
 Email: sbabe@airdberlis.com

- and to -

Attention: Jeffrey Merk  
 Tel: (416) 865-7768  
 Fax: (416) 863-1515  
 Email: jmerk@airdberlis.com

(b) to the Purchaser at:

Care of :

Miller Thomson LLP  
 Barristers & Solicitors  
 40 King Street  
 Suite 5800  
 Toronto, ON M5H 3S1

Attention: Michael Pace  
 Tel.: (416) 595-8533  
 Fax: (416) 595-8695  
 Email: mpace@millerthomson.com

- and to -

Attention: Jeffrey C. Carhart  
 Tel.: (416) 595-8615  
 Fax: (416) 595-8695  
 Email: jcarhart@millerthomson.com

A Notice is deemed to be given and received if sent by personal delivery, courier or electronic mail, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day. A party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the party at its changed address. Any element of a party's address that is not specifically changed in a Notice will be assumed not to be changed. Sending a copy of a Notice to a party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that party. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a party.

#### **Section 14.2 Receiver's Capacity.**

The parties hereto agree that the Receiver will be acting solely in its capacity as receiver of the undertaking, property and assets of the Vendor and that the Receiver and its

agents, officers and employees will have no personal or corporate liability under or as a result of this Agreement, the Closing or otherwise in connection herewith.

**Section 14.3 Assignment.**

- (a) Neither this Agreement nor any of the rights or obligations under this Agreement may be assigned or transferred, in whole or in part, by any party without the prior written consent of the other parties.
- (b) For greater certainty, the Receiver will be permitted to execute and deliver any Closing deliverables of the Vendor, on behalf of the Vendor.

**Section 14.4 Survival.**

Any provision of this Agreement which contemplates performance or the existence of obligations after the Closing Date will not be deemed to be merged into or waived by the execution, delivery or performance of this Agreement or documents delivered in connection herewith or Closing, but will expressly survive the execution, delivery and performance of this Agreement, Closing and the execution, delivery and performance of any and all documents delivered in connection with this Agreement and will be binding upon the party or parties obligated thereby (including any trustee-in-bankruptcy appointed in respect of such party) in accordance with the terms of this Agreement.

**Section 14.5 Time of the Essence.**

Time is of the essence in this Agreement.

**Section 14.6 Enurement.**

This Agreement becomes effective when executed by the Vendor and the Purchaser. After that time, it will be binding upon and enure to the benefit of the parties and their respective successors, legal representatives and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement, including any right to payment, may be assigned or transferred, in whole or in part, by either party without the prior written consent of the other party.

**Section 14.7 Entire Agreement.**

This Agreement and the other documents executed in connection herewith constitutes the entire agreement between the parties with respect to the Transaction contemplated in this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to such transactions, including without limitation the LOI. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have not relied and are not relying on any other information,

discussion or understanding in entering into and completing the transactions contemplated by this Agreement.

**Section 14.8 Waiver.**

No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the party to be bound by the waiver. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right it may have.

**Section 14.9 Expenses.**

Except as otherwise expressly provided in this Agreement, each party will pay for its own costs and expenses incurred in connection with this Agreement and the Transaction contemplated herein. The costs and expenses referred to in this Section 14.9 are those which are incurred in connection with the negotiation, preparation, execution and performance of this Agreement, and the Transaction or the Receivership, including the fees and expenses of legal counsel, investment advisers and accountants.

**Section 14.10 Amendments.**

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by the Vendor and the Purchaser.

**Section 14.11 Further Assurances.**

From and after the Closing Date, each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Purchased Assets and the Assumed Liabilities to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent.

**Section 14.12 Severability.**

If any provision of this Agreement is determined to be illegal, invalid or unenforceable, by any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.

**Section 14.13 Governing Law.**

This Agreement is governed by, and will be interpreted and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.

**Section 14.14 Counterparts.**

This Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, email or other electronic means is as effective as a manually executed counterpart of this Agreement.

**Section 14.15 Public Notices.**

Except to the extent required by Law, no press release, public statement or announcement or other public disclosure with respect to this Agreement or the Transaction may be made except with the prior written consent and joint approval of the Vendor and the Purchaser. Where such disclosure is required by Law, the party required to make the disclosure will use its best efforts to obtain the approval of the other party as to the form, nature and extent of the disclosure.

**Section 14.16 Irrevocable Offer**

This Agreement shall constitute an irrevocable offer to purchase by the Purchaser which will be open for acceptance by the Vendor until 11:00 a.m. (Eastern Time) on the 27th day of July, 2017 provided that such acceptance shall only be valid if each of ECC and Richter have also executed this Agreement where indicated below. If this Agreement has not been fully accepted in accordance with its terms by 11:00 a.m. (Eastern Time) on the 27th day of July, 2017, such offer shall be null and void and the Purchaser shall have no obligation to the Vendor and vice versa.

IN WITNESS WHEREOF the parties have duly executed this Agreement as follows:

**EFC TRADE INC.**

Per: 

Name: DON THIBERT

Title: PRESIDENT

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

I/We have the authority to bind  
EFC Trade Inc..

Executed by the Vendor this \_\_\_\_\_ day of July, 2017.

**WCI WESTERVELT COLLEGE INC.**

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

Name:  Gregory W. Wilson

Title: Director

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

Name:

Title:

I/We have the authority to bind  
WCI Westervelt College Inc.

IN WITNESS WHEREOF, for good and valuable consideration, the receipt and adequacy of which is acknowledged, this Agreement has been executed by each of ECC and Richter this \_\_\_\_\_ day of July, 2017. Each of ECC and Richter expressly covenant, represent and warrant to and in favour of the Purchaser that they will act at all times in accordance with the provisions of this Agreement; without limitation : (i) ECC expressly acknowledges and agrees that it will continue to advance all funding necessary to sustain the Business operations, before and after the Appointment Order, as contemplated by this Agreement and that ECC shall cause all payments to be made by the Vendor subsequent to Closing (including all payments necessary with respect to the Wellington Premises as contemplated in Section 9.4) to be made and that ECC shall cause all covenants, representations and warranties of the Vendor to be adhered to in all respects; (ii) Richter confirms that, as intended Receiver, it will take all steps necessary to assist in obtaining the Approval and Vesting Order and to ensure access to the Wellington Premises before and after Closing, as contemplated hereunder, including through the bankruptcy of the Vendor, if necessary.

**RICHTER ADVISORY GROUP INC.**

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

Name: ADAM SHERMAN  
Title: SENIOR VICE PRESIDENT

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

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
I/We have the authority to bind Richter  
Advisory Group Inc.

**ECC EDUCATION CONSOLIDATION  
CORP.**

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

Name: Gregory W. Wilson  
Title: Director

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

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
I/We have the authority to bind ECC  
Education Consolidation Corp.

**Schedule "A" - Permitted Encumbrances****None.**

### **Schedule “B” - Assigned Contracts**

Any contract or agreement designated as an Assigned Contract by the Purchaser prior to the Closing Date in accordance with the terms of this Agreement.



## Schedule "C" - Programs

1. Westervelt College, London

1060 Wellington Road , London, ON N6E3W5

**Phone:** (519)668-2000

**Fax:** (519)668-1616

<u>Program</u>	<u>Weeks</u>	<u>Hours</u>	<u>Tuition</u>	<u>Books (estimated)</u>	<u>Other Fees</u>	<u>International Fees</u>	<u>*Effective Date</u>
Business Accounting and Payroll	52	1284	\$9,950	\$1,360	\$1,980	\$0	
Business Marketing Professional	52	1200	\$9,995	\$845	\$1,555	\$0	
Executive Administration	39	1080	\$9,995	\$1,060	\$1,280	\$0	
Health Information Management	67	1854	\$14,795	\$2,300	\$975	\$0	
Hotel, Restaurant and Casino	25	500	\$7,470	\$345	\$680	\$0	
Information Technology Technician	39	924	\$8,285	\$1,110	\$2,050	\$0	
Interior Decorating	25	512	\$7,350	\$127	\$620	\$0	
Law Clerk	52	1176	\$12,995	\$1,060	\$1,280	\$0	
Law, Security, and Police Foundations	52	1240	\$13,845	\$740	\$880	\$0	
Massage Therapy	77	2244	\$17,372	\$603	\$2,200	\$0	
Medical Administration	47	1072	\$9,995	\$520	\$1,780	\$0	
Medical Laboratory Assistant/Technician	39	1068	\$9,995	\$480	\$2,180	\$0	
Office Administrator	25	660	\$7,995	\$535	\$580	\$0	
Orthopaedic Technician	52	1410	\$14,760	\$1,060	\$2,850	\$0	
Paralegal Studies	52	1236	\$13,795	\$1,200	\$1,280	\$0	
Personal Support Worker	24	700	\$5,800	\$290	\$1,035	\$0	
Pharmacy Assistant (6 months)	26	702	\$5,990	\$480	\$1,600	\$0	
Pharmacy Technician	52	1386	\$13,995	\$1,000	\$2,280	\$0	
Receptionist	13	348	\$5,950	\$685	\$80	\$0	
Supply Chain and Logistics	65	1610	\$9,995	\$1,720	\$2,230	\$0	
Tourism and Travel	25	600	\$7,950	\$470	\$196	\$0	
Web Design Professional	52	1100	\$9,995	\$540	\$860	\$0	

**Schedule “D” – Approval and Vesting Order**

**APPROVAL AND VESTING ORDER**

Court File No. ●

**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

**COMMERCIAL LIST**

THE HONOURABLE	)	● DAY, THE ●
	)	
JUSTICE	)	DAY OF ●, 2017

B E T W E E N:

**PLAINTIFF**

Plaintiff

- and -

**DEFENDANT**

Defendant

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by ECC Education Consolidation Corporation for an order approving the sale transaction (the “Transaction”) contemplated by an asset purchase agreement (the “Sale Agreement”) between WCI Westerville College Inc. (the “Debtor”) and EFC Trade Inc.(the “Purchaser”), dated the ● day of July, 2017, and appended to the Report of the Richter Advisory Group Inc. (“Richter”), in its capacity as intended receiver of the Debtor, dated the ● day of ● 2017 (the “Report”), and vesting in the Purchaser the Debtor’s right, title and interest in and to the assets described in the Sale Agreement (the “Purchased Assets”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for Richter in its capacity as Receiver (the “Receiver”), [NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] sworn the ● day of ●, 2017 filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver and Purchaser’s certificate to the Purchaser substantially in the form attached as Schedule A hereto (the “Receiver’s Certificate”), all of the Debtor’s right, title and interest in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “Claims”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice [●] dated [●]; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule B hereto (all of which are collectively referred to as the “Encumbrances”, which term shall not include the permitted encumbrances listed on Schedule C) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all

Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

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

6. THIS COURT ORDERS that, notwithstanding:

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

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtor and shall not be void or voidable by creditors of the Debtor, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

7. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

---

**Schedule A  
Form of Receiver's Certificate**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**PLAINTIFF**

Plaintiff

- and -

**DEFENDANT**

Defendant

**CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice (the "Court") dated [DATE OF ORDER], [NAME OF RECEIVER] was appointed as the receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor").

B. Pursuant to an Order of the Court dated [DATE], the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and EFC Trade Inc. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtor's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for

the Purchased Assets; (ii) that the conditions to Closing as set out in section • of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER AND THE PURCHASER EACH CERTIFY the following:

1. The Purchaser has paid, and the Receiver has received, the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement.
2. The conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser.
3. The Transaction has been completed to the satisfaction of the Receiver and the Purchaser.

This Certificate was delivered by the Receiver at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**EFT TRADE INC.**

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

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

I/We have the authority to bind EFT Trade Inc.

**RICHTER ADVISORY GROUP INC.,**  
solely in its capacity as the proposed Court  
appointed Receiver of WCI Westerville  
College Inc. and not in any other capacity  
and with no personal or corporate liability

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

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

I/We have the authority to bind Richter  
Advisory Group Inc.



## Schedule B

### Specific Claims to be deleted and expunged as against WCI Westervelt College Inc.

**1. 20140120 1804 1532 5105**  
**PPSA File No. 693264879**

Regn. Length: 5 years  
 Debtor: WCI Westervelt College Inc  
 265 Notre Dame Avenue, Winnipeg, MB R3B 1N9  
**Secured: Royal Bank of Canada**  
 220 Portage Avenue 2<sup>nd</sup> Floor, Winnipeg, MB R3C 0A5  
 Collateral: Inventory, Equipment, Accounts, Other, Motor Vehicle  
 General  
 Collateral  
 Description: The secured interest is taken in all of the debtor's present and after-acquired personal property.

**2. 20150923 1319 1862 8185**  
**PPSA File No. 710196984**

Regn. Length: 4 years  
 Debtor: 1. ECC Education Consolidation Corporation  
 Suite 1300, 433 Main Street, Winnipeg, MB R3B 1B3  
 2. RCI Robertson College Inc.  
 Suite 1300, 433 Main Street, Winnipeg, MB R3B 1B3  
 3. WCI Westervelt College Inc.  
 1060 Wellington Street, London, ON N6E 3W5  
**Secured: FWCU Capital Corp.**  
 6470 201 Street, Langley, BC V2Y 2X4  
 Collateral: Inventory, Equipment, Accounts, Other, Motor Vehicle

**Schedule C**  
**Permitted Encumbrances**  
**(unaffected by the Approval and Vesting Order)**

- NIL -

**Schedule “E”  
Non-Competition Agreement**

## NON-COMPETITION AGREEMENT

**THIS AGREEMENT** made the ● day of July, 2017

**BETWEEN:**

**WCI WESTERVELT COLLEGE INC.**, a corporation  
incorporated under the laws of the Province of Ontario (the  
“**Vendor**”)

- and -

**ECC EDUCATION CONSOLIDATION CORP.**, a  
corporation incorporated under the laws of ● (“**ECC**”)

- and -

**EFC TRADE INC.** ( the “**Purchaser**”)

**RECITALS:**

A. Pursuant to an asset purchase agreement (the “**Purchase Agreement**”) dated as of July ●, 2017, between the Purchaser and the Vendor, the Purchaser has agreed to acquire certain assets of the Vendor.

B. The knowledge and experience of the Vendors (as hereinafter defined) in the Business (as hereinafter defined) is specialized and highly competitive.

C. It is a condition to the completion of the transactions contemplated by the Purchase Agreement that the Vendors and the Purchaser enter into this Agreement.

**NOW THEREFORE**, in consideration of the premises and covenants contained in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged), the Parties agree as follows:

### ARTICLE 1 INTERPRETATION

#### 1.1 Definitions

In this Agreement, capitalized terms not otherwise defined have the meaning given to such terms in the Purchase Agreement, and:

“**Affiliate**” has the meaning given to that term in the *Business Corporations Act* (Ontario).

**“Business”** means the business of owning and operating private career colleges.

**“Confidential Information”** means any and all information generated or collected by the Vendors in respect of the Business, regardless of form, format or media, including written, oral, graphic, reduced to tangible form, communicated or obtained through meetings or inspections and disclosed to Purchaser which Vendors ought reasonably to consider to be confidential including:

- (a) matters of a technical nature such as trade secrets or systems, techniques, modes of operation, data, inventions (whether or not such inventions have been protected by patent, copyright, trademark or industrial design), patents and other intellectual property, ideas, discoveries, designs, know-how, show-how, proposals, development information, specifications, background research information, methods, results, reports, technical data sheets and similar material; and
- (b) matters of a financial, business or commercial nature such as information concerning costs, profits, debtor and creditor information, pricing policies, markets, sales, suppliers, clients, students, product plans, business opportunities, marketing plans or strategies, business plans, information relating to the directors, officers or employees of the Vendor.

**“Governmental Authority”** means any national, multi-national, federal, provincial, state, municipal, local or other government, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

**“Parties”** means collectively the Vendor, ECC and the Purchaser and **“Party”** means any of them.

**“Person”** means an individual, a corporation, a limited liability company, an unlimited liability company, a partnership, a limited partnership, a trust, an unincorporated organization, a joint venture, a joint stock company and any Governmental Authority.

**“Territory”** means within 150 kilometers of the border of Census metropolitan area London, Ontario as prescribed by Statistics Canada.

**“Vendors”** means, together, the Vendor and ECC.

## 1.2 Interpretation

In this Agreement:

- (a) Unless specified otherwise, reference to a statute includes any regulations under such statute and refers to that statute and such regulations as they may be amended or to any successor legislation.

- (b) The division into articles, sections, paragraphs and schedules and the insertion of headings are for convenience of reference only and will not affect the construction or interpretation of this Agreement. The words “hereto”, “herein”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular portion of it. References to an Article, Section, Paragraph or Schedule refer to the applicable article, section, paragraph or schedule of this Agreement.
- (c) Words in the singular include the plural and vice versa, words in one gender include all genders, and the words “including”, “include” and “includes” mean “including (or include or includes) without limitation”.
- (d) This Agreement is the joint product of the Parties, has been subject to mutual consultation, negotiation and agreement and will not be construed for or against any Party.

## ARTICLE 2 NON-COMPETITION

### 2.1 Non-Competition

Each of the Vendors shall not, for a period of three (3) years from the date of this Agreement, within the Territory, directly or indirectly, in any manner whatsoever including either individually, in partnership, jointly with any other Person, or as independent contractor, principal, agent, owner or shareholder, supply programs or services to any students of the Vendor or:

- (a) establish, carry on, be engaged in or concerned with or interested in, any undertaking or business;
- (b) have any financial interest (including an interest by way of royalty or other compensation arrangements) in or in respect of the business of any Person which carries on, directly or indirectly, an undertaking or business;
- (c) advise, lend money to, guarantee the debts or obligations of or give security on behalf of any Person which carries on, directly or indirectly, an undertaking or business; or
- (d) consent to its name to be used or employed by any Person, directly or indirectly, engaged or concerned with or interested in any aspect of an undertaking or business,

in each case, which is substantially the same as, or competes in whole or in part with the Business; except that the foregoing shall not apply to: (x) the supplying of programs or services to any students of the Vendor who: (A) participates in such programs or services of any of the Vendors without solicitation, attempts to solicit, canvassing or other similar such activities by any of the Vendors; or (B) responds to an advertisement published by the Vendors (or an agency contracted thereby) in a

newspaper, magazine, trade publication or other publication or by electronic means, such as posting on the Internet, and that is available to the general public for such programs or services by any of the Vendors; or (y) any advertisement published by the Vendors (or an agency contracted thereby) in a newspaper, magazine, trade publication or other publication or by electronic means, such as posting on the Internet, and that is available to the general public with respect to any programs or services by any of the Vendors or any of the activities described in (a) to (d) above, inclusive.

### **ARTICLE 3 NON-SOLICITATION /NON-DISPARAGEMENT**

#### **3.1 Non-Solicitation**

Each of the Vendors shall not, for a period of three (3) years from the date of this Agreement, directly or indirectly, in any manner whatsoever:

- (a) solicit or attempt to solicit any Person who is then an employee, consultant or agent of the Purchaser to leave the employment of the Purchaser or to cease to act as its consultant or agent; or
- (b) canvass or solicit business from any student of the Vendor, or divert or take away or attempt to divert or take away the business of any student of the Vendor, who in each case has been a student of the Vendor anytime in the preceding 12 months;
- (c) make negative or disparaging statements regarding the Purchaser or any of the Affiliates of the Purchaser.

except that the foregoing shall not apply to solicitation, attempts to solicit, canvassing or other similar such activities where contact with the Vendors is initiated by such individual in response to an advertisement published by the Vendors (or a recruitment agency contracted thereby) in a newspaper, magazine, trade publication or other publication or by electronic means, such as posting on the Internet, and that is available to the general public.

#### **3.2 Non-Disparagement**

Each of the Vendors shall not, for a period of three (3) years from the date of this Agreement, directly or indirectly, in any manner whatsoever make negative or disparaging statements regarding the Purchaser or any of the Affiliates of the Purchaser.

## **ARTICLE 4 CONFIDENTIALITY**

### **4.1 Confidential Information**

Each of the Vendors acknowledges that:

- (a) they have had access to Confidential Information, which information is now the exclusive property of the Purchaser;
- (b) the disclosure of any Confidential Information to competitors of the Purchaser would be highly detrimental to the best interests of the Purchaser; and
- (c) the right to maintain the Confidential Information confidential constitutes a propriety right which the Purchaser is entitled to protect.

Accordingly, each of the Vendors will not use for its own benefit or for the benefit of others any Confidential Information and will not disclose any Confidential Information to any Person.

### **4.2 Notification**

The Vendors agree to notify the Purchaser upon becoming aware of any disclosure or use of Confidential Information by the Vendors or the Vendors' representatives.

### **4.3 Exceptions**

For the purposes of this Agreement, including Article 4, Confidential Information does not include information that:

- (a) is public knowledge at the time of disclosure or which subsequently becomes public knowledge (other than as a result of a breach of this Agreement or other fault on the part of any of the Vendors); or
- (b) is required to be disclosed by a court of competent jurisdiction.

## **ARTICLE 5 REMEDIES**

### **5.1 Equitable Remedies**

Each of the Vendors acknowledges that:

- (a) a breach or threatened breach by any of the Vendors of any of the provisions of this Agreement would cause the Purchaser irreparable harm not compensable in damages alone; and
- (b) it is essential to the effective enforcement of this Agreement that, in addition to any other remedies to which the Purchaser may be entitled at law or in



equity or otherwise under this Agreement, the Purchaser be entitled to seek and obtain, in a summary manner, from any court having jurisdiction, interim, interlocutory, and permanent injunctive relief, specific performance and other equitable remedies.

## **5.2 Indemnity**

Each of the Vendors covenants and agrees with the Purchaser to indemnify and save harmless the Purchaser from and against any and all losses, damages, expenses, liabilities, claims or demands whatsoever suffered or incurred by the Purchaser (including legal fees on a full indemnity basis) which result from any breach of any covenant or agreement contained in this Agreement to be observed or performed by any of the Vendors.

## **ARTICLE 6 ACKNOWLEDGMENT**

### **6.1 Vendors Acknowledgments**

Each of the Vendors acknowledges that:

- (a) having regard to the importance of goodwill of the Business purchased under the Purchase Agreement, the purchase price for the assets and all of the circumstances of the transactions, it is necessary that the Vendors enter into this Agreement in order for the Purchaser to receive the full benefit of the assets and of the goodwill relating to the business acquired and to protect itself from the irreparable harm that would arise out of any breach of the terms of this Agreement;
- (b) the terms of this Agreement are reasonable; and
- (c) the Vendors have been given an opportunity to obtain independent legal advice concerning the interpretation and effect of this Agreement and each enters into it voluntarily and with full understanding of their respective obligations herein.

## **ARTICLE 7 NOTICES**

### **7.1 Notices**

Any notice, direction or other communication required or contemplated by any provision of this Agreement (a “**Notice**”) will be in writing and given by personal delivery, by registered mail, by electronic mail transmission by overnight courier or by telecopier and addressed:

- (a) in the case of a Notice to any of the Vendors, at:

WCI Westervelt College Inc.  
 c/o Maxim Partners, LLC  
 105 East First Street, Suite 203  
 Hinsdale, Illinois 60521  
 U.S.A.

Attention: Gregg Wilson  
 Email: [gregg@maximpartnersllc.com](mailto:gregg@maximpartnersllc.com)

- (b) In the case of a Notice to the Purchaser at:

Saint Elizabeth Health Care  
 90 Allstate Parkway, Suite 300  
 Markham, Ontario L3R 6H3

Attention: Peter Massel and Donald Thibert  
 E mail : [dthibert@donthibertandassociates.com](mailto:dthibert@donthibertandassociates.com) and  
[pmassel@saintelizabeth.com](mailto:pmassel@saintelizabeth.com)

## 7.2 Delivery of Notices

Any Notice:

- (a) delivered before 4:30 p.m. local time on a Business Day will be deemed to have been received on the date of delivery and any Notice delivered after 4:30 p.m. local time on a Business Day or delivered on a day other than a Business Day, will be deemed to have been received on the next Business Day.
- (b) mailed will be deemed to have been received seventy two (72) hours after the date it is postmarked, provided that if the day on which the Notice is deemed to have been received is not a Business Day, then the Notice will be deemed to have been received on the next Business Day.
- (c) sent by telecopier before 4:30 p.m. local time on a Business Day will be deemed to have been received when the sender receives the answer back confirming receipt by the recipient, provided that any telecopy received after 4:30 p.m. local time on a Business Day or received on a day other than a Business Day will be deemed to have been received on the next Business Day.
- (d) transmitted by electronic mail will be deemed to have been received upon the sender's receipt of acknowledgement from the intended recipient.

## 7.3 Interruption of Mail Service

If the Party sending the Notice knows or might reasonably be expected to know that, at the time of sending or within 72 hours thereafter, normal mail service has been

disrupted, then the Notice may only be sent (or re-sent) by delivery, overnight courier, electronic mail transmission or telecopier.

#### **7.4 Change of Address**

Any Party may change its address for service, its fax number, its e-mail address, the name of the individual to the attention of whom a Notice is to be sent or the person to whom a copy of the Notice is to be sent, by written notice given to the other Parties in accordance with this Article 7.

### **ARTICLE 8 GENERAL**

#### **8.1 Severability**

If any provision of this Agreement is determined to be invalid, illegal or unenforceable by an arbitrator or any court of competent jurisdiction, that provision will be severed from this Agreement, and the remaining provisions will remain in full force and effect.

#### **8.2 Amendment and Waiver**

This Agreement may only be amended or terminated by written agreement signed by each Party hereto. Any waiver of any provision of this Agreement will be effective only if it is in writing and signed by the Party to be bound thereby, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement will operate as a waiver of such right.

#### **8.3 Time**

Time is of the essence of this Agreement.

#### **8.4 Further Assurances**

Each Party agrees that upon the reasonable written request of any other Party, at any time, it will perform all acts and execute all documents as may be necessary or desirable to effect the purpose of this Agreement or to better evidence the transactions contemplated by this Agreement.

#### **8.5 Governing Law and Attornment**

This Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each Party irrevocably attorns to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising under or relating to this Agreement

## **8.6 Entire Agreement**

This Agreement and the Purchase Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no representations, warranties, conditions, covenants or other agreements, express or implied, collateral, statutory or otherwise, between the Parties in connection with the subject matter of this Agreement, except as specifically set forth herein.

## **8.7 Benefit of Agreement**

This Agreement will enure to the benefit of and be binding upon the Parties and their respective heirs, executors, administrators, legal representatives, successors and assigns.

## **8.8 Remedies**

The rights and remedies of a Party under this Agreement are cumulative and are in addition to, and not in substitution for, any rights or remedies provided by law or by equity, and any single or partial exercise by a Party of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Agreement does not waive, alter, affect or prejudice any other right or remedy or other rights or remedies to which such Party may be entitled for such default or breach.

## **8.9 Counterparts and Electronic Execution**

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

This Agreement may be executed and delivered by electronic means and each of the Parties may rely on such electronic execution as though it were an original handwritten signature.

**IN WITNESS WHEREOF** the Parties have duly executed this Agreement.

**EFC TRADE INC.**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**WCI WESTERVELT COLLEGE INC.**

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

Name:

Title:

**ECC EDUCATION CONSOLIDATION  
CORP.**

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

Name:

Title:

**Schedule "F"**  
**Designated Occupancy Costs**

Rent
Common Areas costs if applicable
Repairs and Maintenance
Cleaning and Janitorial
Property Taxes
Utilities, Gas, Hydro, Water, Sewage
Phone Lines
Internet Connectivity
Photocopier Lease Payments

All items are plus applicable taxes / HST

29753535.2

25450918.10

**ECC EDUCATION CONSOLIDATION CORPORATION**

- and -

**WCI WESTERVELT COLLEGE INC.**

Applicant

Respondent

Court File No. CV-17-\_\_\_\_\_-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
PROCEEDING COMMENCED AT TORONTO**

**AFFIDAVIT OF JOHN KOEHN  
(sworn July 31, 2017)**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, ON M5J 2T9

**Sam Babe (LSUC # 49498B)**  
Tel: (416) 865-7718  
Fax: (416) 863-1515  
Email: [sbabe@airdberlis.com](mailto:sbabe@airdberlis.com)

*Lawyers for ECC Education Consolidation Corporation and WCI  
Westervelt College Inc.*

## **Tab 5**



Court File No. CV-17-\_\_\_\_-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

B E T W E E N:

**ECC EDUCATION CONSOLIDATION CORPORATION**

Applicant

- and -

**WCI WESTERVELT COLLEGE INC.**

Respondent

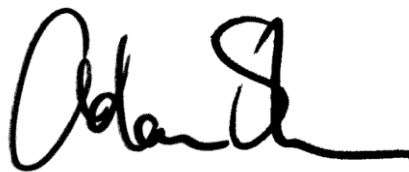
**APPLICATION UNDER SECTION 101 OF THE *COURTS OF JUSTICE ACT*, R.S.O.  
1990, c. C.43, AS AMENDED**

**CONSENT**

**RICHTER ADVISORY GROUP INC.** (“**Richter**”) hereby consents to act as Court-appointed receiver, without security, of all of the assets, undertakings and properties of WCI Westervelt College Inc. pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, in accordance with an order substantially in the form requested by the Applicant, or as such order may be amended in a manner satisfactory to Richter.

Dated at Toronto this 31<sup>st</sup> day of July, 2017.

**RICHTER ADVISORY GROUP INC.**



By: \_\_\_\_\_

Name: Adam Sherman

Title: Senior Vice President

## **Tab 6**

**TO: AIRD & BERLIS LLP**

Brookfield Place  
1800 – 181 Bay Street  
Toronto, ON M5J 2T9

**Sam Babe** (LSUC # 49498B)

Tel: 416.865.7718

Fax: 416.863.1515

Email: [sbabe@airdberlis.com](mailto:sbabe@airdberlis.com)

*Lawyers for ECC Education Consolidation Corporation and WCI Westervelt College Inc.*

**AND TO: RICHTER ADVISORY GROUP INC.**

3320 – 181 Bay Street  
Toronto, ON M5J 2T3

**Adam Sherman**

Tel: 416.642.4836

Email: [asherman@richter.ca](mailto:asherman@richter.ca)

*Proposed Receiver*

**AND TO: STIKEMAN ELLIOTT LLP**

5300 Commerce Court West  
199 Bay Street  
Toronto, ON M5L 1B9

**Elizabeth Pillon**

Tel: 416.869.5623

Fax: 416.947.0866

Email: [lpillon@stikeman.com](mailto:lpillon@stikeman.com)

*Lawyers for Richter Advisory Group Inc.*

**AND TO: MILLER THOMSON LLP**  
Scotia Plaza  
40 King Street West, Suite 5800  
Toronto, ON M5H 3S1

**Jeffrey Carhart**  
Tel: 416.595.8615  
Fax: 416. 595.8695  
Email: [jcarhart@millerthomson.com](mailto:jcarhart@millerthomson.com)

*Lawyers for EFC Trade Inc.*

**AND TO: ROYAL BANK OF CANADA**  
Commercial Financial Services  
100-220 Portage Avenue  
Winnipeg, MB R3C 0A5

**Mark Schollenberg**  
Tel: 204.988.4227  
Fax: 204.988.4487  
Email: [mark.schollengberg@rbc.com](mailto:mark.schollengberg@rbc.com)

**AND TO: FWCU CAPITAL CORP.**  
6470 201 Street  
Langley, BC V2Y 2X4

**Kristi Miller**  
Tel: 604.501.4264  
Email: [kmiller@firstwestcapital.ca](mailto:kmiller@firstwestcapital.ca)

**AND TO: MINISTRY OF ADVANCE EDUCATION AND SKILLS DEVELOPMENT**  
Legal Services Branch  
Mowat Block 18th Floor, 900 Bay Street  
Toronto, ON M7A 1L2

**Farah Malik**  
Tel: 416.327.0311  
Email: [farah.malik@ontario.ca](mailto:farah.malik@ontario.ca)

**Karen Yee**  
Tel: 416.325.2402  
Email: [karen.yee@ontario.ca](mailto:karen.yee@ontario.ca)

**AND TO: DEPARTMENT OF JUSTICE CANADA**  
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**ECC EDUCATION CONSOLIDATION CORPORATION**

**WCI WESTERVELT COLLEGE INC.**

Applicant

Respondent

Court File No. CV-17-57992-00CL

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
PROCEEDING COMMENCED AT TORONTO

**APPLICATION RECORD**

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