

CURRENT REPORT

Amendment No. 1

Pursuant to:

- (i) Section 4.02(a)(iii) of the Indenture, dated May 4, 2016, governing the 7.875% Senior Notes due 2024 of McGraw-Hill Global Education Holdings, LLC and McGraw-Hill Global Education Finance, Inc. and
- (ii) Section 6.02(a)(iii) of the Term Loan Agreement, dated April 20, 2018, among MHGE Parent, LLC, the lenders party thereto and Ares Agent Services, L.P., as administrative agent

Date of Report: May 22, 2019

McGraw-Hill Global Education Holdings, LLC

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New York, New York 10121

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Explanatory Note:

On May 6, 2019, McGraw-Hill Global Education Holdings, LLC (“McGraw-Issuer”) and MHGE Parent, LLC (the “Companies”) posted a Current Report (the “Original Current Report”) to report the entry into an Agreement and Plan of Merger by and among Cengage Learning, Inc., Cengage Learning Holdings II, Inc., Cengage Learning Holdco, Inc., McGraw-Hill Education, Inc. and McGraw-Issuer, dated as of May 1, 2019 (the “Merger Agreement”). The Companies are posting this Amendment No. 1 to include a copy of the Merger Agreement as an exhibit to the Original Current Report. The disclosure included in the Original Current Report otherwise remains unchanged.

The description of the Merger Agreement in the Original Current Report is qualified in its entirety by reference to the full text of the Merger Agreement attached hereto as Exhibit 2.1 and incorporated by reference herein.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
2.1	Agreement and Plan of Merger, dated as of May 1, 2019, by and among McGraw-Hill Education, Inc., McGraw-Hill Global Education Holdings, LLC, Cengage Learning Holdings II, Inc., Cengage Learning Holdco, Inc. and Cengage Learning, Inc.

SIGNATURE

The Company has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

McGraw-Hill Global Education Holdings, LLC

Date: May 22, 2019

By: /s/ David B. Stafford
Name: David B. Stafford
Title: Senior Vice President and General
Counsel

AGREEMENT AND PLAN OF MERGER

by and among

MCGRAW-HILL EDUCATION, INC.,

MCGRAW-HILL GLOBAL EDUCATION HOLDINGS, LLC,

CENGAGE LEARNING HOLDINGS II, INC.,

CENGAGE LEARNING HOLDCO, INC.,

and

CENGAGE LEARNING, INC.

Dated as of May 1, 2019

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AGREEMENT AND PLAN OF MERGER

This AGREEMENT AND PLAN OF MERGER (this “**Agreement**”), dated as of May 1, 2019, is entered into by and among McGraw-Hill Education, Inc., a Delaware corporation (“**McGraw-Hill**”), McGraw-Hill Global Education Holdings, LLC, a Delaware limited liability company and an indirect wholly owned subsidiary of McGraw-Hill (“**McGraw-Hill Issuer**”), Cengage Learning Holdings II, Inc., a Delaware corporation (“**Cengage**”), Cengage Learning Holdco, Inc., a Delaware corporation and a direct wholly owned subsidiary of Cengage (“**Cengage Intermediate Holdco**”) and Cengage Learning, Inc., a Delaware corporation and a direct wholly owned subsidiary of Cengage Intermediate Holdco (“**Cengage Issuer**”). Each of McGraw-Hill, McGraw-Hill Issuer, Cengage, Cengage Intermediate Holdco and Cengage Issuer is referred to herein, individually, as a “**Party**” and, collectively, as the “**Parties**.”

RECITALS

WHEREAS, the Parties intend that, on the terms and subject to the conditions set forth in this Agreement, (a) Cengage Intermediate Holdco shall merge with and into Cengage (the “**Holdco Merger**”) in accordance with Section 253 of the General Corporation Law of the State of Delaware (the “**DGCL**”), whereupon the separate corporate existence of Cengage Intermediate Holdco shall cease and Cengage shall survive as the surviving corporation in the Holdco Merger, (b) immediately following the Holdco Merger, Cengage Issuer shall merge with and into Cengage (the “**Issuer Merger**”) in accordance with Section 253 of the General Corporation Law of the State of Delaware (the “**DGCL**”), whereupon the separate corporate existence of Cengage Issuer shall cease and Cengage shall survive as the surviving corporation in the Issuer Merger, and (c) immediately following the Issuer Merger, Cengage shall merge with and into McGraw-Hill Issuer (the “**Parent Merger**”) and, together with the Issuer Merger and Holdco Merger, the “**Mergers**”) in accordance with the provisions of the DGCL and the Delaware Limited Liability Company Act (the “**DLLCA**”), whereupon the separate corporate existence of Cengage shall cease and McGraw-Hill Issuer shall survive as the surviving corporation in the Parent Merger;

WHEREAS, the board of directors of Cengage (the “**Cengage Board**”), has unanimously (a) determined that this Agreement and the transactions contemplated by this Agreement (the “**Transactions**”), including the Parent Merger, are fair to, and in the best interests of, Cengage and its stockholders and (b) approved and declared advisable this Agreement and the transactions contemplated by this Agreement, including the Parent Merger, on the terms and subject to the conditions set forth in this Agreement;

WHEREAS, the board of directors of McGraw-Hill (the “**McGraw-Hill Board**”) has unanimously (a) determined that this Agreement and the Transactions, including the Parent Merger, are fair to, and in the best interests of, McGraw-Hill and its stockholders and (b) approved and declared advisable this Agreement and the Transactions, including the Parent Merger, on the terms and subject to the conditions set forth in this Agreement;

WHEREAS, the board of managers or board of directors, as applicable, and the sole member, as applicable, of each of Cengage Intermediate Holdco, Cengage Issuer and McGraw-Hill Issuer has (a) determined that this Agreement and the Transactions, including each of the Mergers, as applicable, are fair to, and in the best interests of, their respective members, as applicable, and (b) approved and declared advisable this Agreement and the Transactions, including each of the Mergers, as applicable, on the terms and subject to the conditions set forth in this Agreement;

WHEREAS, in connection with the Mergers, the Parties desire to amend and restate the Organizational Documents of McGraw-Hill on the terms and subject to the conditions set forth in this Agreement;

WHEREAS, it is intended that, for U.S. federal income Tax purposes, (a) the Parent Merger shall qualify as a “reorganization” within the meaning of Section 368(a) of the Internal Revenue Code of 1986, as amended (the “**Code**”), and this Agreement is intended to be a “plan of reorganization” for purposes of Sections 354 and 361 of the Code, and (b) each of the Holdco Merger and Issuer Merger shall qualify as a “liquidation” within the meaning of Sections 332(a) and 337(a) of the Code or as a “reorganization” within the meaning of Section 368(a) of the Code, and this Agreement is intended to be a “plan of liquidation” or “plan or reorganization” (as applicable); and

WHEREAS, the Parties desire to make certain representations, warranties, covenants and agreements in connection with this Agreement and set forth certain conditions to the Mergers.

NOW, THEREFORE, in consideration of the foregoing premises and the representations, warranties, covenants and agreements set forth in this Agreement, the Parties agree as follows:

ARTICLE I

THE CLOSING TRANSACTIONS

1.1. **Closing Transactions.** On the terms and subject to the conditions set forth in this Agreement, and in accordance with the DGCL and DLLCA, as applicable:

(a) At the Holdco Merger Effective Time, Cengage Intermediate Holdco shall merge with and into Cengage, whereupon the separate corporate existence of Cengage Intermediate Holdco shall cease, and Cengage shall survive as the surviving corporation in the Holdco Merger;

(b) Immediately following the Holdco Merger Effective Time, Cengage Issuer shall merge with and into Cengage, whereupon the separate corporate existence of Cengage Issuer shall cease, and Cengage shall survive as the surviving corporation in the Issuer Merger (Cengage, as the surviving corporation in the Holdco Merger and Issuer Merger, sometimes being referred to herein as the Surviving Corporation (the “**Surviving Corporation**”));

(c) Immediately following the Issuer Merger Effective Time, at the Certificate Amendment Effective Time:

(i) the certificate of incorporation of McGraw-Hill (McGraw-Hill, from and after the Parent Merger Effective Time, sometimes being referred to herein as the Combined Corporation (the “**Combined Corporation**”)), as in effect at the Issuer Merger Effective Time, shall be amended and restated in accordance with the summary set forth in **Exhibit A** (such amendment and restatement, the “**Certificate Amendment**”) and to change the corporate name set forth therein as mutually agreed by McGraw-Hill and Cengage, and as so amended and restated shall be the certificate of incorporation of the Combined Corporation until thereafter amended as provided therein or by applicable Law. The Parties agree that by virtue of the Certificate Amendment, and without any further action on the part of any other Person,

(A) (1) there shall be authorized a new class of common stock of the Combined Corporation designated as Class A Common Stock, par value \$0.01 per share (the “**Class A Common Stock**”), having the rights, powers and privileges set forth in the Certificate Amendment, and (2) each share of common stock of McGraw-Hill, par value \$0.01 per share (the “**Existing McGraw-Hill Common Stock**”) issued and outstanding at the Issuer Merger Effective Time (other than any shares held by McGraw-Hill as treasury stock, which shall be cancelled, and no payment shall be made with respect thereto) shall be converted into one share of Class A Common Stock;

(B) there shall be authorized a new class of common stock of the Combined Corporation designated as Class B Common Stock, par value \$0.01 per share (the “**Class B Common Stock**”), having the rights, powers and privileges set forth in the Certificate Amendment;

(C) there shall be authorized a new class of common stock of the Combined Corporation designated as Class C Common Stock, par value \$0.01 per share (the “**Class C Common Stock**”), having the rights, powers and privileges set forth in the Certificate Amendment; and

(D) there shall be authorized a new class of common stock of the Combined Corporation designated as Residual Common Stock, par value \$0.01 per share (the “**Residual Common Stock**”), having the rights, powers and privileges set forth in the Certificate Amendment.

(ii) the bylaws of McGraw-Hill, as in effect at the Issuer Merger Effective Time, shall be amended and restated to the extent required to be consistent with and not conflict with the Certificate Amendment, and to change the corporate name set forth therein as mutually agreed by McGraw-Hill and Cengage, and as so amended and restated shall be the bylaws of the Combined Corporation until thereafter amended as provided therein or by applicable Law.

(d) Immediately after the Certificate Amendment Effective Time, at the Parent Merger Effective Time, Cengage shall merge with and into McGraw-Hill Issuer, whereupon the separate corporate existence of Cengage shall cease, and McGraw-Hill Issuer

shall survive as the surviving entity in the Parent Merger (McGraw-Hill Issuer, as the surviving entity in the Parent Merger, sometimes being referred to herein as the Surviving Issuer (the “**Surviving Issuer**”)), such that following the Parent Merger, McGraw-Hill Issuer shall be an indirect wholly owned subsidiary of McGraw-Hill.

The Mergers shall have such other effects as are provided in the DGCL and the DLLCA, as applicable.

1.2. **Closing**. The closing of the Mergers (the “**Closing**”) shall take place at the offices of Wachtell, Lipton, Rosen & Katz, 51 West 52nd Street, New York, New York 10019, at (a) 9:00 a.m., New York time, on the third (3rd) Business Day following the satisfaction or waiver (to the extent permissible) of the last to be satisfied or waived conditions set forth in **Article VI** (other than those conditions that by their nature are to be satisfied or waived at the Closing, but subject to the satisfaction or (to the extent permissible) waiver of those conditions); or (b) such other date, time or place as McGraw-Hill or Cengage may mutually agree in writing (the date on which the Closing actually occurs, the “**Closing Date**”).

1.3. **Effective Times of the Closing Transactions**.

(a) At the Closing:

(i) Cengage shall cause a certificate of ownership and merger relating to the Holdco Merger to be executed, acknowledged and filed with the Secretary of State of the State of Delaware (the “**Delaware Secretary**”) as provided in Section 253 of the DGCL (the “**Certificate of Ownership**”);

(ii) Cengage shall cause a certificate of ownership and merger relating to the Issuer Merger to be executed, acknowledged and filed with the Secretary of State of the State of Delaware (the “**Delaware Secretary**”) as provided in Section 253 of the DGCL (the “**Certificate of Issuer Ownership**”);

(iii) Immediately following the filing of the Certificate of Issuer Ownership, McGraw-Hill shall cause a restated certificate of incorporation of McGraw-Hill containing the terms set forth in the Certificate Amendment to be executed, acknowledged and filed with the Delaware Secretary as provided in Sections 242 and 245 of the DGCL (the “**Certificate of Amendment**”); and

(iv) Immediately following the filing of the Certificate of Amendment, McGraw-Hill shall cause a certificate of merger relating to the Parent Merger to be executed, acknowledged and filed with the Delaware Secretary as provided in Section 264 of the DGCL and Section 18-209 of the DLLCA (the “**Certificate of Merger**”).

(b) (i) The Holdco Merger shall become effective at the time when the Certificate of Ownership has been duly filed with the Delaware Secretary, or at such later date and time as may be agreed by the Parties in writing and specified in the Certificate of Ownership (such date and time, the “**Holdco Merger Effective Time**”); (ii) the Issuer Merger shall become effective at the time when the Certificate of Issuer Ownership has been duly filed with the Delaware Secretary, or at such later date and time as may be agreed by the Parties in writing and

specified in the Certificate of Issuer Ownership (such date and time, the “**Issuer Merger Effective Time**”); (iii) the Certificate Amendment shall become effective at the time when the Certificate of Amendment has been duly filed with the Delaware Secretary, or at such later date and time as may be agreed by the Parties in writing and specified in the Certificate of Amendment (such date and time, the “**Certificate Amendment Effective Time**”); and (iv) the Parent Merger shall become effective at the time when the Certificate of Merger has been duly filed with the Delaware Secretary, or at such later date and time as may be agreed by the Parties in writing and specified in the Certificate of Merger (such date and time, the “**Parent Merger Effective Time**”).

1.4. The Certificate of Incorporation and Bylaws of the Surviving Corporation. At the Holdco Merger Effective Time and the Issuer Merger Effective Time, the certificate of incorporation and bylaws of Cengage shall be the certificate of incorporation and bylaws of the Surviving Corporation until thereafter amended as provided therein or by applicable Law.

1.5. The Certificate of Formation and Limited Liability Company Agreement of the Surviving Issuer. At the Parent Merger Effective Time, the certificate of formation and limited liability company agreement of McGraw-Hill Issuer shall be the certificate of formation and limited liability company agreement of the Surviving Issuer until thereafter amended as provided therein or by applicable Law.

1.6. Directors.

(a) Subject to applicable Law, the directors of Cengage immediately prior to the Holdco Merger Effective Time and Issuer Merger Effective Time shall be the initial directors of the Surviving Corporation and shall hold office until their respective successors are duly elected and qualified, or their earlier death, resignation or removal.

(b) Subject to applicable Law, the managers of McGraw-Hill Issuer immediately prior to the Parent Merger Effective Time shall be the initial managers of the Surviving Issuer and shall hold office until their respective successors are duly elected and qualified, or their earlier death, resignation or removal.

ARTICLE II

CONVERSION OF SECURITIES

2.1. Effect of the Holdco Merger on Securities. At the Holdco Merger Effective Time, by virtue of the Holdco Merger and without any action on the part of the Parties or holders of any securities of the Parties, each share of common stock of Cengage Intermediate Holdco issued and outstanding immediately prior to the Holdco Merger Effective Time shall no longer be outstanding and shall automatically be cancelled and shall cease to exist, and no consideration shall be delivered in exchange therefor, and each share of common stock of Cengage, par value \$0.01 per share (“**Cengage Common Stock**”) issued and outstanding immediately prior to the Holdco Merger Effective Time shall remain issued and outstanding as a share of common stock of the Surviving Corporation.

2.2. Effect of the Parent Merger on Securities. At the Parent Merger Effective Time, by virtue of the Parent Merger and without any action on the part of the Parties or holders of any securities of the Parties:

(a) each share of Cengage Common Stock, if any, held by Cengage as treasury stock immediately prior to the Parent Merger Effective Time shall be cancelled, and no payment (of Merger Consideration or otherwise) shall be made with respect thereto (such shares of capital stock, “**Cancelled Shares**”); and

(b) each share of Cengage Common Stock issued and outstanding immediately prior to the Parent Merger Effective Time (other than any Cancelled Shares or Dissenting Shares) shall be automatically cancelled and converted into the right to receive a number of shares of Class B Common Stock equal to the Pro Forma Ratio (the “**Merger Consideration**”).

2.3. Effect of the Issuer Merger on Securities. At the Issuer Merger Effective Time, by virtue of the Issuer Merger and without any action on the part of the Parties or holders of any securities of the Parties, each share of common stock of Cengage Issuer issued and outstanding immediately prior to the Issuer Merger Effective Time shall no longer be outstanding and shall automatically be cancelled and shall cease to exist, and no consideration shall be delivered in exchange therefor, and each and every share of Cengage Common Stock issued and outstanding immediately prior to the Issuer Merger Effective Time shall remain issued and outstanding as a share of common stock of the Surviving Corporation.

2.4. Treatment of Equity Awards.

(a) At the Parent Merger Effective Time, without any action on the part of the award holders, all of the McGraw-Hill Rollover Options and McGraw-Hill RSU Awards that are outstanding as of immediately prior to the Certificate Amendment Effective Time and all of the Cengage Rollover Options and Cengage Rollover RSU Awards that are outstanding as of immediately prior to the Parent Merger Effective Time shall be treated as follows:

(i) each McGraw-Hill Rollover Option shall be cancelled, terminated and converted into an option (each, a “**Converted McGraw-Hill Option**”) (A) to purchase a number of shares of Class C Common Stock equal to the number of shares of Existing McGraw-Hill Common Stock subject to such McGraw-Hill Rollover Option as of immediately prior to the Certificate Amendment Effective Time, with (B) a per share exercise price equal to the per share exercise price applicable to such McGraw-Hill Rollover Option as of immediately prior to the Certificate Amendment Effective Time, and, except as specifically provided in this Section 2.4, each such Converted McGraw-Hill Option shall continue to be governed by the same terms and conditions (including, as applicable, vesting, exercisability and forfeiture terms) as applied to the corresponding McGraw-Hill Rollover Option immediately prior to the Certificate Amendment Effective Time;

(ii) each McGraw-Hill RSU Award shall be cancelled, terminated and converted into a restricted stock unit award corresponding to a number of shares of Class C Common Stock (each, a “**Converted McGraw-Hill RSU Award**”) equal to the number of

shares of Existing McGraw-Hill Common Stock subject to such McGraw-Hill RSU Award as of immediately prior to the Certificate Amendment Effective Time, and, except as specifically provided in this Section 2.4, each such Converted McGraw-Hill RSU Award shall continue to be governed by the same terms and conditions (including, as applicable, vesting and forfeiture terms) as applied to the corresponding McGraw-Hill RSU Award immediately prior to the Certificate Amendment Effective Time;

(iii) each Cengage Rollover Option shall be cancelled, terminated and converted into an option (each, a “**Converted Cengage Option**”) (A) to purchase a number of shares of Class C Common Stock equal to the product (rounded down to the nearest whole number of shares of Class C Common Stock) of (x) the number of shares of Cengage Common Stock subject to such Cengage Rollover Option as of immediately prior to the Parent Merger Effective Time *multiplied by* (y) the Pro Forma Ratio, with (B) a per share exercise price equal to the quotient (rounded up to the nearest whole cent) of (x) the per share exercise price applicable to such Cengage Rollover Option as of immediately prior to the Parent Merger Effective Time *divided by* (y) the Pro Forma Ratio, and, except as specifically provided in this Section 2.4, following the Parent Merger Effective Time, each such Converted Cengage Option shall continue to be governed by the same terms and conditions (including, as applicable, vesting, exercisability and forfeiture terms) as applied to the corresponding Cengage Rollover Option immediately prior to the Parent Merger Effective Time;

(iv) (A) each Cengage Rollover RSU Award shall be cancelled, terminated and converted into a restricted stock unit award corresponding to a number of shares of Class C Common Stock (each, a “**Converted Cengage RSU Award**”) equal to the number of shares of Cengage Common Stock subject to such Cengage Rollover RSU Award as of immediately prior to the Parent Merger Effective Time *multiplied by* the Pro Forma Ratio, and, except as specifically provided in this Section 2.4, each such Converted Cengage RSU Award shall continue to be governed by the same terms and conditions (including, as applicable, vesting and forfeiture terms) as applied to the corresponding Cengage Rollover RSU Award immediately prior to the Parent Merger Effective Time and (B) the per-unit amount of any cash dividend equivalent right associated with a Cengage Rollover RSU Award converted into a Converted Cengage RSU Award as of immediately prior to the Parent Merger Effective Time shall be *divided by* the Pro Forma Ratio, and such cash dividend equivalent right shall following the Parent Merger Effective Time apply to the Converted Cengage RSU Award that corresponds to such Cengage Rollover RSU Award and shall otherwise continue to be governed by the same the same terms and conditions (including, as applicable, vesting and forfeiture terms) as applied prior to the Parent Merger Effective Time; and

(b) Without any action on the part of the holder of any McGraw-Hill Specified Option, no later than immediately prior to the Issuer Merger Effective Time, each outstanding McGraw-Hill Specified Option shall be canceled, terminated and converted into a number of shares of Existing McGraw-Hill Common Stock (the “**McGraw-Hill Specified Option Earned Shares**”) equal to (i) the number of shares of Existing McGraw-Hill Common Stock subject to such McGraw-Hill Specified Option *minus* (ii) the number of shares of Existing McGraw-Hill Common Stock having, as of the date of such conversion, a value (based on a per share value of Existing McGraw-Hill Common Stock determined by the McGraw-Hill Board in its sole discretion) equal to the aggregate exercise price of the shares of Existing McGraw-Hill

Common Stock subject to such McGraw-Hill Specified Option. Any applicable required tax withholding in connection with such event shall be satisfied through withholding by McGraw-Hill of shares of Existing McGraw-Hill Common Stock (the number of shares so withheld, the “**McGraw-Hill Specified Option Withheld Shares**” and the excess of the McGraw-Hill Specified Option Earned Shares over the McGraw-Hill Specified Option Withheld Shares, the “**McGraw-Hill Specified Option Delivered Shares**”). For the avoidance of doubt, without further action on the part of the holder of such McGraw-Hill Specified Option Delivered Shares, (x) the McGraw-Hill Specified Option Delivered Shares will be converted pursuant to Section 1.1(c)(i)(A) into shares of Class A Common Stock and (y) the McGraw-Hill Specified Option Withheld Shares shall be treated as treasury stock and shall be cancelled pursuant to Section 1.1(c)(i)(A).

(c) No later than immediately prior to the Parent Merger Effective Time, without any action on the part of the holders of any Cengage Specified Options or Cengage Non-Rollover RSU Awards, all of the Cengage Specified Options and Cengage Non-Rollover RSU Awards outstanding as of the conversion described below shall be treated as follows (with any cash payable to be paid through payroll as soon as reasonably practicable following the Parent Merger Effective Time, but no later than ten (10) Business Days following the Parent Merger Effective Time):

(i) (A) each outstanding Cengage Specified Option shall be canceled, terminated and converted into a number of shares of Cengage Common Stock (the “**Cengage Specified Option Earned Shares**”) equal to (x) the number of shares of Cengage Common Stock subject to such Cengage Specified Option *minus* (y) the number of shares of Cengage Common Stock having, as of the date of such conversion, a value (based on a per share value of Cengage Common Stock determined by the Cengage Board in its sole discretion) equal to the aggregate exercise price of the shares of Cengage Common Stock subject to such Cengage Specified Option, (B) any applicable required tax withholding in connection with such event shall be satisfied through withholding by Cengage of shares of Cengage Common Stock (the number of shares so withheld, the “**Cengage Specified Option Withheld Shares**” and the excess of the Cengage Specified Option Earned Shares over the Cengage Specified Option Withheld Shares, the “**Cengage Specified Option Delivered Shares**”); and (C) for the avoidance of doubt, the Cengage Specified Option Delivered Shares shall be converted pursuant to Section 2.2(b) into Class B Common Stock and the Cengage Specified Option Withheld Shares shall be treated as treasury stock and cancelled pursuant to Section 2.2(a); and

(ii) (A) each outstanding Cengage Non-Rollover RSU Award shall be cancelled, terminated and converted into a number of shares of Cengage Common Stock (the “**Cengage RSU Earned Shares**”) equal to the number of shares of Cengage Common Stock subject to such Cengage Non-Rollover RSU Award; (B) the per-unit amount of any cash dividend equivalent right associated with a Cengage Non-Rollover RSU Award as of such conversion shall be paid as soon as practicable following the Parent Merger Effective Time, subject to any required applicable tax withholding; (C) any required applicable tax withholding in connection with the event described in clause (A) shall be satisfied through withholding by Cengage of shares of Cengage Common Stock (the number of shares so withheld, the “**Cengage RSU Withheld Shares**” and the excess of the Cengage RSU Earned Shares over the Cengage RSU Withheld Shares, the “**Cengage RSU Delivered Shares**”); and (D) for the avoidance of

doubt, the Cengage RSU Delivered Shares shall be converted pursuant to Section 2.2(b) into Class B Common Stock and the Cengage RSU Withheld Shares shall be treated as treasury stock and cancelled pursuant to Section 2.2(a).

(d) For the avoidance of doubt, (i) any withholding Taxes taken into account pursuant to Sections 2.4(b), 2.4(c)(i), and 2.4(c)(ii) shall not give rise to any requirement of the applicable holder of McGraw-Hill Specified Options, Cengage Specified Options or Cengage Non-Rollover RSU Awards to make a cash payment pursuant to clause (i) of Section 2.6(a) and (ii) the values utilized for purposes of Sections 2.4(b)(ii), 2.4(c)(i)(A)(y), and 2.4(c)(ii)(C) shall be used solely for the purposes set forth therein, and shall not be required to be used for any other purpose (including for purposes of tax reporting, withholding or remission).

(e) As of the Parent Merger Effective Time, McGraw-Hill shall assume and honor the Cengage Stock Plans in accordance with their terms. At or prior to the Parent Merger Effective Time, Cengage and McGraw-Hill shall adopt any resolutions and take any actions that are necessary to effectuate the treatment of Cengage Equity Awards and McGraw-Hill Equity Awards pursuant to this Section 2.4.

2.5. Stock Transfer Books. The shares of Class A Common Stock received by holders of Existing McGraw-Hill Common Stock pursuant to Section 1.1(c)(i)(A)(2) and the Merger Consideration received by holders of Cengage Common Stock pursuant to Section 2.2(b) shall be recorded on the stock transfer books of the Combined Corporation as shares of Class A Common Stock or Class B Common Stock, as applicable, held in book-entry. From and after the Certificate Amendment Effective Time, there shall be no transfers on the stock transfer books of McGraw-Hill of the shares of Existing McGraw-Hill Common Stock that were outstanding immediately prior to the Certificate Amendment Effective Time and from and after the Parent Merger Effective Time, there shall be no transfers on the stock transfer books of Cengage of the shares of Cengage Common Stock that were outstanding immediately prior to the Parent Merger Effective Time. From and after the Certificate Amendment Effective Time, the holders of shares of Existing McGraw-Hill Common Stock shall cease to have any rights with respect to their shares of Existing McGraw-Hill Common Stock and from and after the Parent Merger Effective Time, the holders of shares of Cengage Common Stock shall cease to have any rights with respect to their shares of Cengage Common Stock, in each case except as otherwise provided herein or by applicable Law.

2.6. Withholding.

(a) McGraw-Hill, Cengage and their respective Affiliates shall be entitled to deduct and withhold (or direct any other Person to deduct and withhold on their behalf) any amount from the payment of the Merger Consideration otherwise payable pursuant to this Agreement, or from the payment of any other consideration payable pursuant to this Agreement, such amounts as are required to be deducted and withheld with respect to the making of such payment under the Code, or any provision of state, local or foreign Tax law. Other than any such deduction or withholding attributable to a failure by Cengage to deliver the certificates described in Section 5.9(d), to the extent McGraw-Hill expects to withhold from payments of the Merger Consideration pursuant to this Section 2.6(a), it shall notify Cengage of any such required deduction or withholding no later than ten (10) calendar days prior to the date on which the

relevant payment is required to be made hereunder, or as soon as reasonably practical thereafter. In the event that McGraw-Hill, Cengage or their respective Affiliates is entitled pursuant to this Section 2.6(a) to deduct and withhold any amount from the payment of Merger Consideration otherwise payable pursuant to this Agreement, or from the payment of any other consideration payable pursuant to this Agreement, (i) the applicable withholding agent shall be entitled to receive, at the Closing, from the Person in respect of which such deduction or withholding is required to be made, an amount of cash equal to the amount of such required deduction or withholding and (ii) the applicable withholding agent shall (A) timely remit such cash amount to the appropriate Governmental Entity in accordance with applicable Tax law and (B) contingent on the applicable withholding agent's receipt of the cash amount described in clause (i) of this Section 2.6(a) from the applicable Person in respect of which such deduction or withholding is required to be made, pay to such Person, without deduction or withholding, the full amount of the Merger Consideration or other consideration payable to such Person pursuant to this Agreement. As promptly as reasonably practicable following the remittance of the cash amount, the applicable withholding agent shall deliver to such Person evidence of such Tax payment. The parties shall reasonably cooperate to minimize any such withholding Taxes and Cengage shall use commercially reasonable efforts to ensure (including by preparing shareholder communication and communicating with holders of Cengage Common Stock), and McGraw-Hill shall reasonably cooperate with Cengage in ensuring, that the applicable Person pays to the applicable withholding agent the cash amount described in clause (i) of this Section 2.6(a) in advance of, or in connection with, the Closing.

(b) Notwithstanding anything in this Agreement to the contrary, in the event that McGraw-Hill, Cengage or any of their respective Affiliates is entitled pursuant to Section 2.6(a) to deduct and withhold any amount from the payment of Merger Consideration otherwise payable pursuant to this Agreement (or from the payment of any other consideration payable pursuant to this Agreement) and the applicable withholding agent has not received the cash amount described in clause (i) of Section 2.6(a) from the Person in respect of which such deduction or withholding is required to be made in advance of, or in connection with, the Closing (any such holder, a "**Delinquent Holder**"), the applicable withholding agent shall be entitled to withhold all of the Merger Consideration or other consideration otherwise payable to such Delinquent Holder. Any Class B Common Stock so withheld from a Delinquent Holder shall be held in trust by McGraw-Hill for the benefit of such Delinquent Holder. While such shares of Class B Common Stock are held in trust, (i) a Delinquent Holder shall have the right to vote, or direct the voting of, such Class B Common Stock to the same extent and in the same manner as all other holders of the Class B Common Stock, and (ii) any dividends or distributions declared on such shares of Class B Common Stock shall not be paid to the Delinquent Holder and, instead, shall also be held in trust for the benefit of such holder. All shares of Class B Common Stock (together with any other property) held in trust for the benefit of a Delinquent Holder shall be released to such holder upon receipt by McGraw-Hill from such holder of the cash amount described in clause (i) of Section 2.6(a), plus interest (calculated from the Closing Date to the date of payment at a rate of eight percent (8.0%) per annum).

2.7. Dissenting Shares. Notwithstanding anything in this Agreement to the contrary and to the extent available under Section 262 of the DGCL, any share of Cengage Common Stock that is issued and outstanding immediately prior to the Parent Merger Effective Time and that is held by a holder of shares of Cengage Common Stock who did not consent to

the Parent Merger, which holder of shares of Cengage Common Stock complies with all of the provisions of the DGCL required to demand, exercise and perfect appraisal rights (such share being a “**Dissenting Share**”, and such holder of Cengage Common Stock, a “**Dissenting Stockholder**”), shall not be converted into the right to receive the Merger Consideration, but, rather, shall be converted into the right to receive such consideration as may be determined to be due pursuant to Section 262 of the DGCL. If any Dissenting Stockholder fails to perfect such stockholder’s dissenters’ rights under the DGCL or withdraws or otherwise loses such rights with respect to any Dissenting Shares, such Dissenting Shares shall thereupon automatically be converted into the right to receive the Merger Consideration. Notwithstanding anything to the contrary contained in this Agreement, if the Parent Merger is rescinded or abandoned, then the right of a stockholder to be paid the fair value of such holder’s Dissenting Shares pursuant to Section 262 of the DGCL shall cease. Prior to the Closing, Cengage shall give McGraw-Hill written notice of any demand for payment of the fair value of any shares of Cengage Common Stock or any attempted withdrawal of any such demand for payment and any other instrument served pursuant to the DGCL and received by Cengage relating to any stockholder’s dissenters’ rights. Prior to the Closing, Cengage shall not voluntarily make any payment with respect to any demand for appraisal with respect to any Dissenting Shares without the prior written consent of McGraw-Hill.

ARTICLE III

MUTUAL REPRESENTATIONS AND WARRANTIES OF CENGAGE AND MCGRAW-HILL

Except as set forth (1) in the Reports of Cengage or McGraw-Hill, as applicable, (x) in the case of McGraw-Hill, made publicly available pursuant to the Term Loan Agreement, dated as of April 20, 2018, among McGraw-Hill Parent, LLC and the other parties thereto (the “**Term Loan Agreement**”) or the Indenture, dated as of May 4, 2016, among McGraw-Hill Issuer and the other parties thereto (the “**McGraw-Hill Indenture**”) or (y) in the case of Cengage, made publicly available pursuant to the Shareholder Agreement, dated as of March 31, 2014, among Cengage and the other parties thereto (the “**Cengage Shareholders Agreement**”), the Indenture, dated as of June 7, 2016, among Cengage Issuer and the other parties thereto (the “**Cengage Indenture**”), the Cengage ABL Agreement and the Cengage Term Loan Agreement, in the case of each of (x) and (y) during the period from January 1, 2018 through the Business Day prior to the date of this Agreement (excluding any disclosures set forth or referenced in any risk factor section or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature) or (2) in the correspondingly numbered sections or subsections of the disclosure letter delivered to Cengage by McGraw-Hill (the “**McGraw-Hill Disclosure Letter**”) and to McGraw-Hill by Cengage (the “**Cengage Disclosure Letter**”), and each of the McGraw-Hill Disclosure Letter and the Cengage Disclosure Letter, a “**Disclosure Letter**”) concurrently with the execution and delivery of this Agreement (it being agreed that for purposes of the representations and warranties set forth in this Article III, disclosure of any item in any section or subsection of a Party’s Disclosure Letter shall be deemed disclosure with respect to any other section or subsection of the such Disclosure Letter, to which the relevance of such item is reasonably apparent on its face), McGraw-Hill and McGraw-Hill Issuer hereby jointly and severally represent and warrant to Cengage, Cengage Intermediate

Holdco and Cengage Issuer, and Cengage, Cengage Intermediate Holdco and Cengage Issuer hereby jointly and severally represent and warrant to McGraw-Hill and McGraw-Hill Issuer that:

3.1. Organization, Good Standing and Qualification.

(a) Such Party and each of its Subsidiaries (i) is a legal entity duly organized, validly existing and in good standing (with respect to jurisdictions which recognize such concept) under the Laws of its respective jurisdiction of organization, (ii) has all requisite corporate or similar power and authority to own, lease and operate its properties and assets and to carry on its business as currently conducted and (iii) is qualified to do business and is in good standing (where applicable) as a foreign corporation or other legal entity in each jurisdiction where the ownership, leasing or operation of its assets or properties or conduct of its business requires such qualification, except, in the case of each of clause (i), (ii) and (iii), as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party. Cengage has made available to McGraw-Hill, and McGraw-Hill has made available to Cengage, complete and correct copies of such Party's Organizational Documents.

(b) Such Party is not in violation of its Organizational Documents, except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, or prevent the ability of such Party to consummate the transactions contemplated by this Agreement. In the case of Cengage, the Cengage Shareholders Agreement, and, in the case of McGraw-Hill, the Stockholders' Agreement, dated as of March 22, 2013, among McGraw-Hill and the other parties thereto (the "**McGraw-Hill Stockholders Agreement**"), constitutes a valid and binding agreement of each party thereto enforceable against each such party in accordance with its terms. There are no Proceedings pending against or, to the Knowledge of such Party, threatened in writing against such Party or any of its Subsidiaries in respect of the Cengage Shareholders Agreement or McGraw-Hill Stockholders Agreement, as applicable, or alleging a breach by such Party of any fiduciary duty or otherwise.

3.2. Equity Investments. Section 3.2 of such Party's Disclosure Letter sets forth, as of the date hereof, such Party's or its Subsidiaries' capital stock, equity interest or other direct or indirect ownership interest in any other Person other than (a) securities in a publicly traded company held for investment by such Party or any of its Subsidiaries and consisting of less than one percent (1%) of the outstanding capital stock of such company and (b) capital stock, equity interests or other direct or indirect ownership interests or securities of direct or indirect wholly-owned Subsidiaries of such Party. Such Party does not own, directly or indirectly, any voting interest in any Person that requires an additional filing by any Party under the HSR Act.

3.3. Corporate Authority; Approval. In the case of Cengage, each of Cengage, Cengage Intermediate Holdco and Cengage Issuer and, in the case of McGraw-Hill, each of McGraw-Hill and McGraw-Hill Issuer has all requisite corporate or entity power and authority and has taken all corporate or entity action necessary in order to execute, deliver and perform its obligations under this Agreement and to consummate the Transactions, and the execution and delivery of this Agreement and the consummation of the Transactions, by such Party have been duly authorized by all necessary corporate or entity action on the part of such Party, in each case subject only to, in the case of McGraw-Hill, the Requisite McGraw-Hill Stockholder Approval,

and, in the case of Cengage, the Requisite Cengage Stockholder Approval. This Agreement has been duly executed and delivered by such Party and, assuming the valid execution and delivery of this Agreement by each other Party, constitutes a valid and binding agreement of such Party enforceable against such Party in accordance with its terms, subject to bankruptcy, insolvency, fraudulent conveyance of preferential transfers, reorganization, moratorium and similar Laws of general applicability relating to or affecting creditors' rights and to general equity principles (the "**Bankruptcy and Equity Exception**").

3.4. Governmental Filings; No Violations; Certain Contracts.

(a) Other than (i) the filings, notices, reports, consents, registrations, clearances, approvals, permits, expirations of waiting periods or authorizations (collectively, "**Filings**") pursuant to the DGCL, (ii) Filings pursuant to federal and state securities, takeover and "blue sky" Laws, (iii) the Requisite Regulatory Approvals, and (iv) Filings relating to the commercial Contracts with Governmental Entities set forth on Section 3.4(a)(iv) of such Party's Disclosure Letter, no Filings are required to be made or obtained by such Party with, nor are any required to be obtained by such Party with or from, any Governmental Entity, in connection with the execution, delivery and performance of this Agreement by such Party and the consummation of the Transactions except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, or prevent the ability of such Party to consummate the Transactions.

(b) Subject to obtaining the Requisite McGraw-Hill Stockholder Approval and the Requisite Cengage Stockholder Approval, as applicable, the execution, delivery and performance of this Agreement by such Party does not, and the consummation of the Transactions will not, (i) constitute or result in any violation or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or loss of a benefit under, or result in the creation of any Encumbrance upon any of the properties or assets of such Party or any of its Subsidiaries under, (A) the Organizational Documents of such Party or any of its Subsidiaries, (B) any Contract, including for the avoidance of doubt any loan or credit agreement, note, bond or indenture, binding upon such Party or any of its Subsidiaries or (C) assuming (solely with respect to performance of this Agreement and consummation of the Transactions) compliance with the matters referred to in Section 3.4(a), under any Law to which such Party or any of its Subsidiaries is subject or (ii) result in any change in the rights or obligations of any Party under any Contract binding upon such Party or any of its Subsidiaries, except, in the case of clause (i)(B) or (C) or clause (ii) above, as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, or prevent the ability of such Party to consummate the Transactions.

3.5. Reports; Internal Controls.

(a) Such Party has made publicly available, on a timely basis, all forms, schedules, prospectuses, statements, certifications, reports and documents required to be made publicly available, in the case of McGraw-Hill, pursuant to the Term Loan Agreement and the McGraw-Hill Indenture or, in the case of Cengage, pursuant to the Cengage Shareholders Agreement, the Cengage Indenture, the Cengage ABL Agreement and the Cengage Term Loan

Agreement, in each case since January 1, 2017 (the “**Applicable Date**”) (the forms, schedules, prospectuses, statements, reports and documents, in the case of McGraw-Hill, made publicly available pursuant to the Term Loan Agreement and the McGraw-Hill Indenture or, in the case of Cengage, made publicly available pursuant to the Cengage Shareholders Agreement and the Cengage Indenture, in each case since the Applicable Date and those made publicly available by McGraw-Hill or Cengage, as applicable, pursuant to such documents subsequent to the date of this Agreement, including any amendments thereto, such Party’s “**Reports**”). As of their respective dates (or, if amended or superseded by any report prior to the date of this Agreement, then as of the date of such report), such Party’s Reports did not, and any of such Party’s Reports made publicly available subsequent to the date of this Agreement will not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in light of the circumstances in which they were made, not misleading.

(b) Such Party maintains internal control over financial reporting and such internal control is effective in providing reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP and includes policies and procedures that (i) pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of such Party and its Subsidiaries, (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of such Party and its Subsidiaries are being made only in accordance with authorizations of management and directors of such Party and its Subsidiaries, and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of such Party’s assets that could have a material effect on its financial statements. The records, systems, controls, data and information of such Party and its Subsidiaries that are used in the systems of disclosure controls and procedures and of financial reporting controls and procedures described above are recorded, stored, maintained and operated under means that are under the exclusive ownership and direct control of such Party or a wholly owned Subsidiary of such Party or its accountants, except as would not reasonably be expected to adversely affect or disrupt, in any material respect, such Party’s systems of disclosure controls and procedures and of financial reporting controls and procedures or the reports generated thereby.

(c) Since the Applicable Date, none of such Party’s auditors, such Party’s board of directors and the audit committee of the board of directors of such Party has received any oral or written notification of (i) any “significant deficiency” in the design or operation of its internal controls over financial reporting that are reasonably likely to adversely affect such reporting (ii) any “material weakness” in internal controls over financial reporting and (iii) any fraud, whether or not material, that involves management or other employees who have a significant role in such Party’s internal controls over financial reporting. Since the Applicable Date, no concerns in writing from such Party’s employees regarding questionable accounting or auditing matters and, to the Knowledge of such Party, no complaints from any source regarding accounting, internal accounting controls or auditing matters, have been received by any of the Persons listed on Section 8.7(a)(i) of such Party’s Disclosure Letter.

3.6. Financial Statements.

(a) In the case of Cengage, Cengage, and in the case of McGraw-Hill, McGraw-Hill, has made available to the other the following (collectively, the “**Financial Statements**”): (i) the audited consolidated balance sheets of such Party and its consolidated Subsidiaries as at March 31, 2018 (in the case of Cengage) and December 31, 2018 (in the case of McGraw-Hill), and the related consolidated statements of operations, stockholders’ equity and cash flows of such Party and its consolidated Subsidiaries for the fiscal years ended March 31, 2018 (in the case of Cengage) and December 31, 2018 (in the case of McGraw-Hill) (including in each case the related notes and schedules, where applicable) and (ii) the unaudited consolidated balance sheet of Cengage and its consolidated Subsidiaries as at December 31, 2018, and the related consolidated statements of operations, stockholders’ equity and cash flows of Cengage and its consolidated Subsidiaries as at and for the nine-month period ended December 31, 2018 (the “**Balance Sheet Date**”) (including the related notes and schedules, where applicable). The financial statements of such Party included in the Reports of such Party at the time made publicly available were prepared in all material respects in accordance with GAAP consistently applied during the periods involved (except as may be indicated in the notes thereto or), and fairly present in all material respects (subject in the case of unaudited statements to normal, recurring audit adjustments which are not, individually or in the aggregate, material, and to any other adjustments described therein, including the notes thereto) the consolidated financial position of such Party and its consolidated Subsidiaries as at the dates thereof and the consolidated results of their operations, stockholders’ equity and cash flows for the periods then ended. The Financial Statements of such Party have been prepared from the books and records of such Party and its Subsidiaries.

(b) No such Party or any of its Subsidiaries has any commitment to become a party to (i) any off balance sheet partnership or any similar Contract or arrangement (including any Contract or arrangement relating to any transaction or relationship between or among such Party or its Subsidiaries, on the one hand, and any unconsolidated Affiliate on the other hand), including any “off-balance sheet arrangement” (as defined in Item 303(a) of Regulation S-K promulgated by the U.S. Securities and Exchange Commission) or (ii) any hedging, derivatives or similar Contract or arrangement.

3.7. Absence of Certain Changes or Events.

(a) Since the Balance Sheet Date through the date of this Agreement, except for matters arising in connection with the Transactions, such Party and its Subsidiaries have conducted their businesses in all material respects in the Ordinary Course.

(b) Since the Balance Sheet Date, there has not been any Effect that has had or would, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect on such Party.

3.8. Litigation and Liabilities.

(a) There are no Proceedings before any Governmental Entity pending against or, to the Knowledge of such Party, threatened in writing against such Party or any of its

Subsidiaries, or any of their respective properties or assets, except as would not, individually or in the aggregate, reasonably be expected to (i) be material to such Party and its Subsidiaries, taken as a whole or (ii) prevent or materially delay the consummation of the Transactions. Section 3.8(a) of such Party's Disclosure Letter, sets forth all settlement agreements or similar Contracts entered into since the Applicable Date of such Party or its Subsidiaries (x) providing for payments by such Party or its Subsidiaries in excess of \$1,000,000, or (y) imposing material non-monetary restrictions on the business of such Party or any of its Subsidiaries.

(b) Except for obligations and liabilities (i) reflected or reserved against in such Party's most recent consolidated balance sheet (or the notes thereto) included in the Financial Statements (solely to the extent so reflected or reserved), (ii) incurred in the Ordinary Course since the Balance Sheet Date, or (iii) incurred in connection with or contemplated by this Agreement, there are no obligations or liabilities of such Party or any of its Subsidiaries that would be required by GAAP to be set forth on a consolidated balance sheet of such Party, whether or not accrued, contingent or otherwise, except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole.

(c) Neither such Party nor any of its Subsidiaries is a party to or subject to the provisions of any material judgment, order, writ, injunction, decree or award of any Governmental Entity. There has not been since the Applicable Date, nor are there currently any, internal investigations or inquiries being conducted by such Party, such Party's board of directors (or any committee thereof) or any third party at the request of any of the foregoing concerning any material financial, accounting, tax, conflict of interest, self-dealing, fraudulent or deceptive conduct or other misfeasance or malfeasance issues.

3.9. Employee Benefits.

(a) Section 3.9(a) of such Party's Disclosure Letter sets forth an accurate and complete list of each material Benefit Plan of such Party. With respect to each material Benefit Plan of such Party, such Party has made available to the other Party, to the extent applicable, accurate and complete copies of the Benefit Plan document (or a written description of such Benefit Plan if such plan is not set forth in a written document), including any amendments thereto and, to the extent applicable, (i) all related trust documents, insurance contracts or funding vehicles, (ii) the most recent summary plan description together with all summaries of material modifications thereto, (iii) the most recent IRS determination or opinion letter, (iv) the most recent annual report (Form 5500 or 990 series and all schedules and financial statements attached thereto), (v) the most recently prepared actuarial report and (vi) all material correspondence to or from any Governmental Entity received since the Applicable Date with respect to any Benefit Plan of such Party.

(b) (i) Each Benefit Plan (including any related trusts), other than "multiemployer plans" within the meaning of Section 3(37) of ERISA (each, a "**Multiemployer Plan**") and Non-U.S. Benefit Plans, has been established, operated and administered in compliance in all material respects with its terms and applicable Laws, including ERISA and the Code, (ii) all contributions or other amounts payable by such Party or any of its Subsidiaries with respect to each Benefit Plan in respect of current or prior plan years have been paid or accrued in

accordance with GAAP in all material respects and (iii) there are no pending or, to the Knowledge of such Party, threatened (in writing) claims (other than routine claims for benefits) or Proceedings by a Governmental Entity by, on behalf of or against any Benefit Plan or any trust related thereto that would reasonably be expected to result in any material liability to such Party or any of its Subsidiaries. No individual who has performed services for such Party or any of its Subsidiaries has, during the prior three (3) years, been improperly excluded from participation in any Benefit Plan.

(c) Each ERISA Plan that is intended to be qualified under Section 401(a) of the Code has been determined by the IRS to be qualified and the plan's related trust to be exempt from U.S. federal income Taxes under Sections 401(a) and 501(a) of the Code, respectively, and to the Knowledge of such Party, nothing has occurred that would adversely affect the qualification or Tax exemption of any such ERISA Plan. With respect to any ERISA Plan, neither such Party nor any of its Subsidiaries has engaged in a transaction in connection with which such Party or any of its Subsidiaries reasonably could be subject to either a material civil penalty assessed pursuant to Section 409 or 502(i) of ERISA or a material Tax imposed pursuant to Section 4975 or 4976 of the Code.

(d) No Party or its ERISA Affiliates (i) maintains, sponsors or contributes to, or has within the past six (6) years maintained, sponsored or contributed to, or has any material liability with respect to, any "defined benefit plan," whether or not subject to Title IV of ERISA, excluding any Multiemployer Plan, or (ii) has an "obligation to contribute" (as defined in ERISA Section 4212) to a Multiemployer Plan.

(e) No Controlled Group Liability has been incurred by such Party or its ERISA Affiliates that has not been satisfied in full, and no condition exists that presents a material risk to such Party or its ERISA Affiliates of incurring any such material liability.

(f) Except as required by applicable Law, no Benefit Plan provides retiree or post-employment medical, disability, life insurance or other welfare benefits to any Person, and none of such Party or any of its Subsidiaries has any obligation to provide such benefits (excluding such Benefit Plan that provides for employer payment or subsidy of COBRA premiums).

(g) Neither the execution and delivery of this Agreement, stockholder or other approval of this Agreement or the consummation of the Transactions could, either alone or in combination with another event, (i) entitle any Employee to severance pay or any increase in severance pay, (ii) accelerate the time of payment or vesting, or increase the amount of compensation due to any such Employee, (iii) directly or indirectly cause either such Party to transfer or set aside any assets to fund any benefits under any Benefit Plan, (iv) otherwise give rise to any liability under any Benefit Plan, (v) limit or restrict the right to merge, terminate or amend any Benefit Plan on or following the Parent Merger Effective Time or (vi) result in any payment (whether in cash or property or the vesting of property) to any "disqualified individual" (as such term is defined in Treasury Regulation Section 1.280G-1) that would, individually or in combination with any other such payment, constitute an "excess parachute payment" (as defined in Section 280G(b)(1) of the Code).

(h) Neither such Party nor any of its Subsidiaries has any obligation to provide, and no Benefit Plan or other agreement of such Party of any of its Subsidiaries provides any individual with the right to, a gross up, indemnification, reimbursement or other payment for any excise or additional Taxes, interest or penalties incurred pursuant to Section 409A or Section 4999 of the Code or due to the failure of any payment to be deductible under Section 280G of the Code.

(i) All Benefit Plans that are maintained primarily for the benefit of Employees outside of the United States (“**Non-U.S. Benefit Plans**”) comply in all material respects with their terms, the terms of any collective bargaining, collective labor or works council agreements, and applicable local Law, and to the Knowledge of such Party, all such plans that are intended or required to be funded or book-reserved are funded or book-reserved, as appropriate, based upon reasonable actuarial assumptions and applicable Law. Each Non-U.S. Benefit Plan which, under the Laws of the applicable foreign country, is required to be registered or approved by any Governmental Entity, has been so registered or approved and each Non-U.S. Benefit Plan intended to qualify for special tax treatment meets all the requirements for such treatment. As of the date of this Agreement, there is no material litigation pending or, to the Knowledge of such Party, threatened relating to any Non-U.S. Benefit Plan.

3.10. Labor Matters.

(a) Section 3.10(a) of such Party’s Disclosure Letter sets forth, as of the date of this Agreement, an accurate and complete list of any collective bargaining agreement or other similar material written agreement with a labor union, works council, or similar employee representative group or organization (“**Labor Organization**”) that such Party or its Subsidiaries is party to, otherwise bound by, or negotiating, as applicable, and copies of such agreements have been made available to the other Party prior to the date of this Agreement or shall be made available to the other Party as promptly as practicable following the date of this Agreement (but in no event later than fifteen (15) Business Days following the date of this Agreement). To the Knowledge of such Party, as of the date of this Agreement, there are no activities or Proceedings by any individual, group of individuals, including representatives of any Labor Organizations, seeking to authorize representation of such Party’s employees by a Labor Organization or to compel such Party to negotiate on a collective basis with respect to terms and conditions of employment.

(b) As of the date of this Agreement, (i) there is no, and has not been since the Applicable Date, any strike, lockout, slowdown, work stoppage, unfair labor practice charge or complaint or other labor dispute, or arbitration or grievance pending or, to the Knowledge of such Party, threatened in writing that may interfere with the respective business activities of such Party and its Subsidiaries, (ii) such Party and its Subsidiaries are in compliance with all applicable Laws respecting labor, employment standards, workers’ compensation, terms and conditions of employment, employment and employment practices, the termination of employment, wages and hours, classification of employees as exempt or non-exempt, immigration, equal employment opportunities (including the prevention of sexual harassment), the provision of meal and rest breaks, pay for all working time, classification of independent contractors, immigration law requirements, and occupational safety and health, and (iii) none of such Party or any of its Subsidiaries has any liability or obligation under the Worker Adjustment

and Retraining Notification Act and the regulations promulgated thereunder or any similar state, local or foreign “mass layoff” or “plant closing” Law that remains unsatisfied, except, in each of clauses (i), (ii) and (iii), as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole. No Party or any of its Subsidiaries has, or in the prior three (3) years has had, any liability with respect to any misclassification of any Person as an independent contractor rather than an employee, or as an “exempt” employee (within the meaning of the Fair Labor Standards Act of 1938, as amended).

3.11. Compliance with Laws; Licenses.

(a) The businesses of such Party and its Subsidiaries have not been since the Applicable Date, and are not being, conducted in violation of any applicable Law, except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole.

(b) Except with respect to regulatory matters covered by Section 5.3, no investigation or review by any Governmental Entity with respect to such Party or any of its Subsidiaries is pending or, to the Knowledge of such Party, threatened in writing, nor has any Governmental Entity indicated an intention to conduct the same, nor has such Party received any notice or communication of material noncompliance with any such Laws that has not been cured as of the date hereof, in each case, except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, or prevent the ability of such Party to consummate the Transactions.

(c) Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, (i) such Party and each of its Subsidiaries has obtained and is in compliance with all Licenses necessary for it to own, lease or operate its properties, rights and other assets and to conduct its business and operations as currently conducted, (ii) all such Licenses are in full force and effect in all material respects, and (iii) to such Party’s Knowledge, there is not currently threatened any revocation, adverse modification or cancellation of any License.

(d) Except as, individually or in the aggregate, would not reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, since the Applicable Date, such Party and each of its Subsidiaries have at all times conducted all export transactions in accordance with (i) all applicable U.S. export and re-export controls, including the United States Export Administration Act, Export Administration Regulations, the Arms Export Control Act and the International Traffic in Arms Regulations, (ii) statutes, executive orders and regulations administered by the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) and the United States Department of State, (iii) import control statutes and regulations administered by the Department of Homeland Security, U.S. Customs and Border Protection, (iv) the anti-boycott regulations administered by the United States Department of Commerce and the U.S. Department of Treasury, and (v) all applicable sanctions, export and import controls and anti-boycott Laws of all other countries in which the business of such Party or any of its Subsidiaries is conducted. Except as, individually or in the aggregate, would not reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, neither such Party nor any of its Subsidiaries has been since the Applicable Date or currently is the

subject of a charging letter or penalty notice issued, or to the Knowledge of such Party, an investigation conducted, by a Governmental Entity pertaining to the statutes or regulations referred to in this Section 3.11(d), nor are there any currently pending internal investigations by such Party pertaining to such matters. Neither such Party nor any of its Subsidiaries is currently designated as a sanctioned party under sanctions administered by OFAC, nor are they owned fifty percent (50%) or more by an individual or entity that is so designated. Neither such Party nor any of its Subsidiaries, or, to such Party's Knowledge, any directors, officers, Employees, independent contractors, consultants, agents and other representatives thereof, located, organized or resident in, or doing business in, a country or region that is the target of comprehensive OFAC sanctions (as of the date of this Agreement, including Cuba, Iran, North Korea, Syria and the Crimea region of Ukraine).

(e) Except as, individually or in the aggregate, would not reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, such Party, its Subsidiaries and their respective Representatives are, and since the Applicable Date have been, in compliance in all material respects with: (i) the provisions of the U.S. Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. §§ 78dd-1, et seq.) ("FCPA"), as if its foreign payments provisions were fully applicable to such Party, its Subsidiaries and such Representatives, and (ii) the provisions of all anti-bribery, anti-corruption and anti-money laundering Laws of each jurisdiction in which such Party and its Subsidiaries operate or have operated and in which any agent thereof is conducting or has conducted business involving such Party. No Proceeding by or before any Governmental Entity involving such Party, any of its Subsidiaries or any of their Representatives involving FCPA or any anti-bribery, anti-corruption or anti-money laundering Law is pending or, to the Knowledge of such Party, threatened, except as, individually or in the aggregate, would not reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole.

3.12. Takeover Statutes. No "fair price", "moratorium", "control share acquisition" or other similar anti-takeover statute or regulation (each, a "Takeover Statute") or any anti-takeover provision in such Party's or its Subsidiaries' Organizational Documents is applicable to such Party, the shares of Cengage Common Stock, in the case of Cengage, the shares of Existing McGraw-Hill Common Stock, in the case of McGraw-Hill, or the Transactions.

3.13. Environmental Matters. Except for those matters that, individually or in the aggregate, are not and would not reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole: (a) such Party and each of its Subsidiaries is, and to the Knowledge of such Party, has been at all prior times, in compliance with all applicable Environmental Laws, which compliance includes the possession of and compliance with Licenses required pursuant to any Environmental Law for it to own, lease or operate its properties, rights and other assets and to conduct its business and operations as currently conducted and all such Licenses are in full force and effect; (b) to the Knowledge of such Party, there is no presence, and there have been no Releases or threatened Releases, of Hazardous Materials on, under, from or affecting any properties or facilities currently or formerly, owned, leased or operated by such Party or any of its Subsidiaries or any predecessor of any of them, under circumstances that would reasonably be expected to result in any claims or liabilities relating to applicable Environmental Laws against such Party or any of its Subsidiaries or

otherwise adversely impact such Party or any of its Subsidiaries; (c) to the Knowledge of such Party, neither such Party nor any of its Subsidiaries nor any other Person whose conduct would result in liability to such Party or any of its Subsidiaries, has Released, placed or disposed of any Hazardous Materials at any other location under circumstances that would reasonably be expected to result in any claims or liabilities relating to applicable Environmental Laws against such Party or any of its Subsidiaries; (d) neither such Party nor any of its Subsidiaries nor, to the Knowledge of such Party, any predecessor of any of them, is subject to any Order of or with any Governmental Entity, or any indemnity or other Contract obligation with any other Person, relating to obligations or liabilities under Environmental Laws or regarding Releases of or exposure to any Hazardous Materials; (e) neither such Party nor any of its Subsidiaries have since the Applicable Date received any written claim, notice or complaint from, or is subject to any Proceeding before, any Governmental Entity relating to or alleging noncompliance with or liability under Environmental Laws or regarding Releases of or exposure to any Hazardous Materials, and no such matter is threatened to the Knowledge of such Party; and (f) to the Knowledge of such Party, there are no other circumstances or conditions involving such Party or any of its Subsidiaries that would reasonably be expected to result in any claim, liability, investigation, or cost pursuant to any Environmental Law with respect to such Party or any of its Subsidiaries.

3.14. Tax Matters.

(a) Except for those matters that, individually or in the aggregate, would not reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole:

(i) Such Party and each of its Subsidiaries (A) have prepared in good faith and duly and timely filed (taking into account any extension of time within which to file) all Tax Returns required to be filed by any of them with the appropriate Tax authority and all such filed Tax Returns (and any amendments thereto) are complete and accurate in all respects; (B) have paid all Taxes that are shown as due on such filed Tax Returns except for Taxes being contested in good faith and for which adequate reserves have been established in accordance with GAAP in the Financial Statements; (C) have withheld and paid all Taxes required to have been withheld and paid in connection with amounts paid or owing to any Employee, stockholder, creditor, independent contractor or other third party; (D) have complied in all respects with all information reporting (and related withholding) and record retention requirements; and (E) have not waived any statute of limitations with respect to Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency (other than pursuant to extensions to file Tax Returns).

(ii) Except to the extent such amount has been accrued on such Party's Financial Statements in accordance with GAAP, no deficiency with respect to an amount of Taxes has been proposed, asserted or assessed against such Party or any of its Subsidiaries by any Governmental Entity. There are no pending or threatened in writing disputes, claims, audits, examinations or other Proceedings regarding any Taxes of such Party and its Subsidiaries or the assets of such Party and its Subsidiaries.

(iii) To the Knowledge of such Party, during the past six (6) years, neither such Party nor any of its Subsidiaries has been informed in writing by any Governmental

Entity that the Governmental Entity believes that such Party or any of its Subsidiaries was required to file any Tax Return that was not filed.

(iv) Neither such Party nor any of its Subsidiaries has any liability for Taxes of any Person (other than such Party or any of its Subsidiaries) arising from the application of Treasury Regulations Section 1.1502-6 (or any similar provision of state, local, or non-U.S. Law), as a transferee or successor, or otherwise by operation of Law.

(v) There are no Encumbrances for Taxes (other than Permitted Encumbrances) on any of the assets of such Party or any of its Subsidiaries.

(vi) Neither such Party nor any of its Subsidiaries is a party to or is bound by any Tax sharing, allocation or indemnification agreement or arrangement (other than (A) such an agreement or arrangement exclusively between or among such Party and its Subsidiaries or (B) an agreement or arrangement entered into in connection with an acquisition or divestiture, or in the ordinary course of business, where the primary purpose of such agreement or arrangement is not Tax sharing, allocation or indemnification).

(vii) Within the past two (2) years, neither such Party nor any of its Subsidiaries has been a “distributing corporation” or a “controlled corporation” within the meaning of Section 355(a) of the Code in a distribution of stock intended to qualify for tax-free treatment under Section 355 of the Code.

(viii) Neither such Party nor any of its Subsidiaries has participated in a “listed transaction” within the meaning of Treasury Regulations Section 1.6011-4(b) or any other transaction requiring disclosure under any similar provision of state, local, or non-U.S. Law.

(ix) Neither such Party nor any of its Subsidiaries will be required to include a material item of income (or exclude a material item of deduction) in any taxable period (or portion thereof) beginning after the Closing Date as a result of (A) a change in or incorrect method of Tax accounting occurring prior to the Closing Date, (B) a prepaid amount received, or paid, prior to the Closing Date, (C) a “closing agreement” as described in Section 7121 of the Code (or any similar provision of state, local, or non-U.S. Law) executed on or prior to the Closing Date, or (D) an election under Section 108(i) of the Code (or any similar provision of state, local, or non-U.S. Law).

(b) Section 3.14(b) of such Party’s Disclosure Letter sets forth the U.S. federal income tax classification of each of such Party’s Subsidiaries.

(c) Neither such Party nor any of its Subsidiaries has made an election pursuant to Section 965(h) of the Code.

(d) To the Knowledge of such Party, no action has been taken or agreed to, and no fact exists, that could prevent or impede (i) the Parent Merger from qualifying as a “reorganization” within the meaning of Section 368(a) of the Code or (ii) each of the Holdco Merger and the Issuer Merger from qualifying as a “liquidation” within the meaning of Sections 332(a) and 337(a) of the Code or as a “reorganization” within the meaning of Section 368(a) of the Code.

3.15. Intellectual Property.

(a) Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, (i) such Party and its Subsidiaries, each as applicable, exclusively own all right, title and interest to its Intellectual Property free and clear of all Encumbrances (except Permitted Encumbrances), and (ii) such Party's Registered Intellectual Property is subsisting and, to the Knowledge of such Party, is not invalid or unenforceable. Since the Applicable Date, no Party has received any written claim or notice from any Person alleging that such Party's Registered Intellectual Property of such Party is invalid or unenforceable.

(b) Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, (i) the operation of the respective businesses of such Party or any of its Subsidiaries and the development, manufacture, use, sale, commercialization or other exploitation of any product, service or other offering currently provided by such Party or its Subsidiaries does not infringe, misappropriate or violate and has not since the Applicable Date infringed, misappropriated, or otherwise violated any Intellectual Property of any other Person, and neither such Party nor any of its Subsidiaries has received any written allegation of same, and (ii) to such Party's Knowledge, no Person is infringing, misappropriating or otherwise violating, or has since the Applicable Date infringed, misappropriated or otherwise violated, such Party's Intellectual Property, and neither such Party nor any of its Subsidiaries have alleged same in writing.

(c) Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, such Party and each of its Subsidiaries have taken commercially reasonable efforts to protect and maintain their Intellectual Property, including using commercially reasonable efforts and taking commercially necessary steps to maintain their material trade secrets in confidence.

(d) Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, such Party and its Subsidiaries do not distribute or make available any material proprietary software to third parties pursuant to any license that requires such Party or its Subsidiaries to also license or make available to third parties any material source code owned by such Party.

(e) Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, the IT Assets used by such Party or any of its Subsidiaries in the conduct of their businesses (i) have not malfunctioned or failed since the Applicable Date and (ii) are sufficient for the current needs of the businesses of such Party and its Subsidiaries.

(f) Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, such Party and each of its Subsidiaries have taken commercially reasonable efforts to (i) protect and maintain the confidentiality, integrity and security of its IT Assets and the information stored or contained therein or transmitted thereby from any unauthorized use, access, interruption or modification by any Person, including the implementation of reasonable backup and disaster recovery technology

processes and (ii) prevent the introduction of disabling codes or instructions, spyware, Trojan horses, worms, viruses or other software routines that permit or cause unauthorized access to, or disruption, impairment, disablement, or destruction of, software, data or other materials. Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, no Person has gained unauthorized access to any IT Assets owned, used, or held for use by such Party or any of its Subsidiaries or the information stored or contained therein or transmitted thereby.

(g) Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, (i) such Party and each of its Subsidiaries are in compliance, and has since the Applicable Date complied, with all applicable Laws and its posted policies relating to the collection, storage, use, transfer and any other processing of any Personal Data collected or used by or on behalf of such Party or its Subsidiaries; and (ii) such Party and each of its Subsidiaries have, since the Applicable Date, taken commercially reasonable steps to ensure that all Personal Data is protected against loss and unauthorized access, use, modification or disclosure, and there has been no incident of same.

3.16. Insurance. All fire and casualty, general liability, business interruption, product liability, sprinkler and water damage, workers' compensation and employer liability, directors', officers' and fiduciaries' policies and other liability insurance policies ("Insurance Policies") maintained by such Party and any of its Subsidiaries are with reputable insurance carriers, provide adequate coverage for all normal risks incident to the business of such Party and its Subsidiaries and their respective properties and assets, and are in character and amount at least equivalent to that carried by Persons engaged in similar businesses and subject to the same or similar perils or hazards, in each case, except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole. Each Insurance Policy is in full force and effect and all premiums due with respect to all Insurance Policies have been paid, and neither such Party nor any of its Subsidiaries has taken any action or failed to take any action that (including with respect to the Mergers), with notice or lapse of time or both, would constitute a breach or default, or permit a termination of any of the Insurance Policies, in each case, except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole.

3.17. Material Contracts.

(a) Section 3.17(a) of such Party's Disclosure Letter sets forth a true, correct and complete list, organized under a header for each subsection, of all of the following Contracts (other than insurance or reinsurance Contracts, Benefit Plans and investment assets) to which such Party or any of its Subsidiaries is party as of the date hereof:

(i) any Contract that involved the expenditure by such Party or any of its Subsidiaries, or involved the payment by a third party to such Party or any of its Subsidiaries, of in excess of \$5,000,000 in the aggregate for the provision of goods and services during the twelve (12) month period ended as of December 31, 2018;

(ii) (A) Contracts with the twenty-five (25) authors who were paid the highest aggregate amount of royalties in 2018 for Higher Ed Titles and (B) Contracts with

authors for Higher Ed Titles that generated more than \$5,000,000 in revenue in 2016, 2017 or 2018;

(iii) Contracts with any content provider (including authors) under which such content provider was paid at least \$1,000,000 in the aggregate by such Party during any year since the Applicable Date;

(iv) any distribution Contract or agency Contract with a distributor or agent relating to the distribution (including rental) of such Party's or a third party's products pursuant to which such Party received revenue (net of fees payable to the distributor or agent) of at least \$1,000,000 in the aggregate during the twelve (12) month period ended as of December 31, 2018;

(v) any translation Contract under which such Party was paid at least \$1,000,000 in the aggregate during any year since the Applicable Date;

(vi) any Contract that materially limits, curtails or restricts or purports to materially limit, curtail or restrict, or, in the case of the Combined Corporation, would or would purport to materially limit, curtail, or restrict, either (A) the type of business in which such Party or any of its Subsidiaries or the Combined Corporation or any of their respective Subsidiaries may engage or the locations in which any of them may so engage in any business or (B) the ability of such Party or any of its Subsidiaries or the Combined Corporation or any of their respective Subsidiaries to hire or solicit for hire for employment any individual or group as would be material to such Party or the Combined Corporation and their respective Subsidiaries, taken as a whole, except for non-disclosure or confidentiality agreements with customary terms and conditions entered into in connection with potential acquisitions or dispositions;

(vii) any Contract that contains a provision requiring, or, in the case of the Combined Corporation, would or would purport to require, such Party or any of its Subsidiaries or the Combined Corporation to purchase products or services from any third party on an exclusive basis;

(viii) any Contract for any joint venture, partnership, stockholder, limited liability or similar arrangement, in each case that is material to such Party;

(ix) any Contract that is an indenture, credit agreement, loan agreement, security agreement, guarantee, note, mortgage or other agreement providing for or guaranteeing Indebtedness of any Person (A) in excess of \$10,000,000 or (B) in excess of \$1,000,000 that provides that (x) such Contract may be terminated as a result of, or (y) the Indebtedness under such Contract becomes due and payable upon, or may have its maturity accelerated as a result of, the consummation of the Transactions, other than Contracts between or among or for the benefit of such Party and any of its wholly owned Subsidiaries or between or among any such wholly owned Subsidiaries;

(x) any Contract that is an acquisition agreement, asset purchase agreement, sale agreement, purchase agreement, stock purchase agreement, put agreement, call agreement or other similar agreement pursuant to which (A) such Party or any of its Subsidiaries would reasonably be expected to be obligated to pay total consideration including assumption of

debt after the date of this Agreement in excess of \$10,000,000, (B) any third party has the right to acquire any assets of such Party or any of its Subsidiaries with a fair market value or purchase price of more than \$10,000,000, (C) such Party or any of its Subsidiaries has contingent liability in excess of \$10,000,000 in respect of indemnification (other than indemnification for representations and covenants that typically do not expire), “earn out” payments, contingent purchase price, or similar contingent payment obligations, or (D) any third party has the right to acquire any interests in such Party or any of its Subsidiaries, other than, in the case of clauses (A) and (B), sales of goods or services in the Ordinary Course;

(xi) any Affiliate Agreement;

(xii) any settlement agreement or similar Contract (i) providing for future payments by such Party or its Subsidiaries in excess of \$1,000,000 or (ii) imposing continuing material non-monetary restrictions on the business of such Party or any of its Subsidiaries; or

(xiii) any Contract that is related to material Intellectual Property or material IT Assets, excluding non-exclusive licenses (A) entered into in the Ordinary Course or (B) for commercially available software under which such Party was not obligated to make aggregate payments of more than \$5,000,000 million during the twelve (12) month period ended as of December 31, 2018 and is not obligated to make aggregate payments of more than \$5,000,000 in any subsequent twelve (12) month period.

Each such Contract described in this Section 3.17(a), together with all Contracts filed as exhibits to such Party’s Reports, is referred to herein as a “**Material Contract.**”

(b) A copy of each Material Contract of such Party or its Subsidiaries entered into prior to the date of this Agreement has been made available to the other Party. Except as, individually or in the aggregate, would not reasonably be expected to material to such Party, (i) each of the Material Contracts is binding on such Party or its Subsidiaries, as the case may be, and to the Knowledge of such Party, each other party thereto, in accordance with its terms, subject to the Bankruptcy and Equity Exception, and is in full force and effect, and (ii) each of such Party and each of its Subsidiaries (to the extent they are party thereto or bound thereby) and, to such Party’s Knowledge, each other party thereto have performed all obligations required to be performed by it under each Material Contract. Except as, individually or in the aggregate, would not reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, (A) each of such Party and each of its Subsidiaries are not (with or without notice, lapse of time or both) in breach or default under any Material Contract and, to the Knowledge of such Party, no other party to any Material Contract is (with or without notice, lapse of time or both) in breach or default thereunder, and (B) neither such Party nor any of its Subsidiaries have received written notice from the other party to any Material Contract of any intention to cancel, terminate, materially change the scope of rights and obligations under or not to renew such Material Contract.

3.18. Title to Assets. Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, (a) such Party has good and marketable title to, or in the case of leased assets, valid leasehold

interests in, all of its assets, tangible or intangible, free and clear of any Encumbrances other than Permitted Encumbrances, (b) such Party or one of its Subsidiaries owns or leases all tangible personal property used in or necessary to conduct its business as currently conducted by such Party and (c) each such item of tangible personal property is in all respects in good operating condition and repair, ordinary wear and tear excepted.

3.19. Real Property.

(a) Section 3.19(a) of such Party's Disclosure Letter, sets forth a complete and correct list of each such parcel of Owned Real Property and identifies the street address of such Owned Real Property. Except as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole, (i) such Party or one of its Subsidiaries, as applicable, has good and marketable title to such Owned Real Property, free and clear of any Encumbrance except for Permitted Encumbrances, and (ii) there are no outstanding options, rights of first refusal, rights of first offer or other third party rights to purchase such Owned Real Property, or any portion thereof or interest therein.

(b) Section 3.19(b) of such Party's Disclosure Letter sets forth a complete and correct list of each Leased Real Property and, for each parcel of Leased Real Property, identifies the street address of such Leased Real Property. Cengage has made available to McGraw-Hill, and McGraw-Hill has made available to Cengage, complete and correct copies of each Real Property Lease with annual payments by such Party for the applicable Leased Real Property in excess of \$1,000,000 and each such Real Property Lease constitutes the entire agreement between each such Party or its Subsidiaries and the counterparty thereto. With respect to the Leased Real Property of such Party, the lease or sublease for such property is valid, legally binding, enforceable and in full force and effect, and, to the Knowledge of such Party, each other party thereto, and none of such Party or any of its Subsidiaries is in breach of or default under such lease or sublease, and no event has occurred, which, with notice, lapse of time or both, would constitute a breach or default by any of such Party or its Subsidiaries or permit termination, modification or acceleration by any third party thereunder, except in each case as would not, individually or in the aggregate, reasonably be expected to be material to such Party and its Subsidiaries, taken as a whole.

(c) The Owned Real Property and Leased Real Property constitute all of the real property used or occupied by each of such Party or its Subsidiaries. There is no pending or threatened appropriation, condemnation or like action, or sale or other disposition in lieu of condemnation, affecting the Owned Real Property or any part thereof, or, to the Knowledge of such Party, the Leased Real Property or any part thereof.

3.20. Affiliate Agreements. Except as set forth on Section 3.20 of such Party's Disclosure Letter, as of the date hereof, no executive officer or director of any such Party or any of its Subsidiaries or any Person owning directly or indirectly five percent (5%) or more of the capital stock of such Party or any of its Subsidiaries as of the date hereof (any such person, an "**Interested Party**") or any partner, director, executive officer, employee, investor or Affiliate of such Interested Party (including for this purpose any "portfolio companies" (as such term is customarily used among institutional investors) of any private equity investor or its Affiliate) or, to the Knowledge of such Party, any family member of any such Interested Party, is a party to

any Contract with or binding upon such Party or its Subsidiaries or has engaged in any transaction with any such Party or its Subsidiaries (in each case, other than other ordinary course employment, compensation or incentive arrangements) (all such Contracts, the “Affiliate Agreements”).

3.21. No Other Representations or Warranties; Non-Reliance. Except for the representations and warranties made by such Party in this Article III and Article IV and in any certificate delivered by such Party pursuant to Article VI, neither such Party nor any other Person makes any express or implied representation or warranty with respect to such Party or any of its Affiliates or any of their respective businesses, operations, assets, liabilities, conditions (financial or otherwise) or prospects in connection with this Agreement or the Transactions, and such Party expressly disclaims any such other representations or warranties. Each Party expressly disclaims reliance upon any representations, warranties or statements relating to a Party or its Subsidiaries whatsoever, express or implied, beyond those expressly given by such Party in this Article III and Article IV and in any certificate delivered by such Party pursuant to Article VI. In particular, without limiting the foregoing, neither such Party nor any other Person makes or has made, and each Party acknowledges that that neither such Party nor any other Person has made, any representation or warranty to any other Party or any of such other Party’s Affiliates or Representatives with respect to (a) any financial projection, forecast, estimate, budget or prospect information relating to such Party, any of its Affiliates or any of their respective businesses that may have been made available to a Party or any of its Representatives (including in certain “data rooms,” “virtual rooms,” management presentations or in any other form in expectation of, or in connection with, the Transactions) or (b) except for the representations and warranties made by such Party in this Article III and Article IV and in any certificate delivered by such Party pursuant to Article VI, any oral or written information made available to any other Party or any of such other Party’s Affiliates or Representatives in the course of their evaluation of such Party, the negotiation of this Agreement or in the course of the Mergers. Notwithstanding the foregoing, nothing in this Section 3.21 shall limit a Party’s remedies in the event of common law fraud arising from the express representations and warranties made by any other Party in this Article III and Article IV.

ARTICLE IV

INDIVIDUAL REPRESENTATIONS AND WARRANTIES OF CENGAGE AND MCGRAW-HILL

Except as set forth (1) in the Reports of Cengage or McGraw-Hill, as applicable, (x) in the case of McGraw-Hill, made publicly available pursuant to the Term Loan Agreement or the McGraw-Hill Indenture or (y) in the case of Cengage, made publicly available pursuant to the Cengage Shareholders Agreement, the Cengage Indenture, the Cengage ABL Agreement and the Cengage Term Loan Agreement, in the case of each of (x) and (y) during the period from January 1, 2018 through the Business Day prior to the date of this Agreement (excluding any disclosures set forth or referenced in any risk factor section or in any other section to the extent they are forward-looking statements or cautionary, predictive or forward-looking in nature) or (2) in the correspondingly numbered sections or subsections of the McGraw-Hill Disclosure Letter or Cengage Disclosure Letter delivered concurrently with the execution and delivery of

this Agreement (it being agreed that for purposes of the representations and warranties set forth in this Article IV, disclosure of any item in any section or subsection of the McGraw-Hill Disclosure Letter or Cengage Disclosure Letter, as applicable, shall be deemed disclosure with respect to any other section or subsection of the McGraw-Hill Disclosure Letter or Cengage Disclosure Letter, as applicable, to which the relevance of such item is reasonably apparent on its face), McGraw-Hill and McGraw-Hill Issuer hereby jointly and severally represent and warrant to Cengage, Cengage Intermediate Holdco and Cengage Issuer, in respect of Section 4.1, Section 4.2, Section 4.3 and Section 4.4, and Cengage, Cengage Intermediate Holdco and Cengage Issuer hereby jointly and severally represent and warrant to McGraw-Hill and McGraw-Hill Issuer, in respect of Section 4.5, Section 4.6, Section 4.7 and Section 4.8, that:

4.1. McGraw-Hill Capital Structure.

(a) The authorized share capital of McGraw-Hill consists of 100,000,000 shares of Existing McGraw-Hill Common Stock, of which 10,749,363.10 shares were issued and outstanding as of the date hereof, and 1,000,000 shares of preferred stock, par value \$0.01 per share, of which none are issued and outstanding as of the date hereof. As of April 26, 2019, there were (i) 186,040 shares of Existing McGraw-Hill Common Stock reserved for issuance under the McGraw-Hill Stock Plan, (ii) 1,004,656 shares of Existing McGraw-Hill Common Stock reserved for issuance upon the exercise and settlement of outstanding McGraw-Hill Options having a weighted average exercise price of \$94.22 per share, and (iii) 145,821 shares of Existing McGraw-Hill Common Stock reserved for issuance upon the settlement or vesting of outstanding McGraw-Hill RSU Awards. Section 4.1(a) of the McGraw-Hill Disclosure Letter contains a complete and accurate list of each outstanding McGraw-Hill Option and McGraw-Hill RSU Award currently outstanding as of the date hereof (including all written commitments to grant awards under the McGraw-Hill Stock Plan) and, with respect thereto, the name or employee identification number of the holder, the date of grant, the number of shares of Existing McGraw-Hill Common Stock issuable upon exercise or settlement, the McGraw-Hill Stock Plan under which it was granted, the applicable vesting schedule, the exercise price per share or purchase price (as applicable), the vested and unvested portion of each such award and the expiration date (as applicable). Each of the outstanding shares of capital stock or other securities of each of McGraw-Hill's Subsidiaries is duly authorized, validly issued, fully paid and nonassessable, and each of the outstanding shares of capital stock or other securities of each of McGraw-Hill's Subsidiaries is owned beneficially and of record by McGraw-Hill or by a direct or indirect wholly owned Subsidiary of McGraw-Hill, free and clear of any pledge, lien, charge, option, hypothecation, mortgage, security interest, adverse right, claim, restriction, prior assignment, license, sublicense, title defect, survey defect, easement or any other encumbrance of any kind or nature whatsoever, whether contingent or absolute, or any agreement, option, right or privilege (whether by Law, Contract or otherwise) capable of becoming any of the foregoing (excluding such transfer restrictions of general applicability as may be provided under the Securities Act, the "blue sky" Laws of the various States of the United States or similar Law of other applicable jurisdictions, an "Encumbrance," and any action of correlative meaning, to "Encumber"). As of the date of this Agreement, except as set forth in this Section 4.1, there are no outstanding subscriptions, options, warrants, puts, call agreements, understandings, claims or other commitments or rights of any type relating to the issuance, sale or transfer by McGraw-Hill of any equity securities of McGraw-Hill, nor are there outstanding any securities which are convertible into or exchangeable for any shares of capital stock of McGraw-Hill and neither

McGraw-Hill nor any of its Subsidiaries has any obligation to issue any additional securities or to pay for or repurchase any securities of McGraw-Hill.

(b) McGraw-Hill Acquisition, LLC (“**McGraw-Hill Acquisition**”) is the sole direct Subsidiary of McGraw-Hill and McGraw-Hill owns beneficially and of record all of the outstanding membership interests of McGraw-Hill Acquisition. McGraw-Hill US Holdings, LLC (“**McGraw-Hill US Holdings**”) is the sole direct Subsidiary of McGraw-Hill Acquisition and McGraw-Hill Acquisition owns beneficially and of record all of the outstanding membership interests of McGraw-Hill US Holdings. McGraw-Hill Parent, LLC (“**McGraw-Hill Parent**”) is the sole direct Subsidiary of McGraw-Hill US Holdings and McGraw-Hill US Holdings owns beneficially and of record all of the outstanding membership interests of McGraw-Hill Parent. McGraw-Hill Global Education Intermediate Holdings, LLC (“**McGraw-Hill Intermediate Holdco**”)(together with McGraw-Hill, McGraw-Hill Issuer, McGraw-Hill Acquisition, McGraw-Hill US Holdings and McGraw-Hill Parent, the “**McGraw-Hill Holding Companies**”) is a direct Subsidiary of McGraw-Hill Parent and McGraw-Hill Parent owns beneficially and of record all of the outstanding membership interests of McGraw-Hill Intermediate Holdco. The authorized membership interests of McGraw-Hill Issuer consist solely of the membership interests owned by McGraw-Hill Intermediate Holdco. Each of the McGraw-Hill Holding Companies (other than McGraw-Hill) is an entity that is disregarded as separate from its owners for U.S. federal income tax purposes.

4.2. **McGraw-Hill Board Approval.** The McGraw-Hill Board has, at a meeting duly called and held at which all directors of McGraw-Hill were present, duly and unanimously adopted resolutions (a) determining that this Agreement and the Transactions are fair to, and in the best interests of, McGraw-Hill and the holders of shares of Existing McGraw-Hill Common Stock and (b) approving and declaring advisable this Agreement and the Transactions on the terms and subject to the conditions set forth in this Agreement. The board of managers and the sole member of McGraw-Hill Issuer has (a) determined that this Agreement and the Transactions, including each of the Mergers, as applicable, are fair to, and in the best interests of, their respective members, and (b) approved and declared advisable this Agreement and the Transactions, including each of the Mergers, as applicable, on the terms and subject to the conditions set forth in this Agreement.

4.3. **McGraw-Hill Brokers and Finders.** Neither McGraw-Hill nor any of its Subsidiaries nor any of their respective officers or directors has employed any broker or finder or incurred any liability for any brokerage fees, commissions or finder’s fees in connection with the Transactions.

4.4. **McGraw-Hill Voting Requirements.** The Requisite McGraw-Hill Stockholder Approval and the approval of the sole member of McGraw-Hill Issuer are the only votes of holders of any securities of McGraw-Hill and its Subsidiaries necessary to approve the Transactions.

4.5. **Cengage Capital Structure.**

(a) The authorized share capital of Cengage consists of 300,000,000 shares of Cengage Common Stock, of which 61,807,236 shares are issued and outstanding as of the date

hereof and 50,000,000 shares of preferred stock, of which none are issued and outstanding as of the date hereof. As of April 26, 2019, there were (i) 9,602,550 shares of Cengage Common Stock reserved for issuance under the Cengage Stock Plans, (ii) 4,055,417 shares of Cengage Common Stock reserved for issuance upon the exercise and settlement of outstanding Cengage Options having a weighted average exercise price of \$18.09 per share, and (iii) 957,982 shares of Cengage Common Stock reserved for issuance upon the settlement or vesting of outstanding Cengage RSU Awards. Section 4.5(a) of the Cengage Disclosure Letter contains a complete and accurate list of each outstanding Cengage Option and Cengage RSU Award currently outstanding as of the date hereof (including all written commitments to grant awards under the Cengage Stock Plans) and, with respect thereto, the name or employee identification number of the holder, the date of grant, the number of shares of Cengage Common Stock issuable upon exercise or settlement, the Cengage Stock Plan under which it was granted, the applicable vesting schedule, the exercise price per share or purchase price (as applicable), the vested and unvested portion of each such award and the expiration date (as applicable). Each of the outstanding shares of capital stock or other securities of each of Cengage's Subsidiaries is duly authorized, validly issued, fully paid and nonassessable, and each of the outstanding shares of capital stock or other securities of each of Cengage's Subsidiaries is owned beneficially and of record by Cengage or by a direct or indirect wholly owned Subsidiary of Cengage, free and clear of any Encumbrance. As of the date of this Agreement, except as set forth in this Section 4.5, there are no outstanding subscriptions, options, warrants, puts, call agreements, understandings, claims or other commitments or rights of any type relating to the issuance, sale or transfer by Cengage of any equity securities of Cengage, nor are there outstanding any securities which are convertible into or exchangeable for any shares of capital stock of Cengage and neither Cengage nor any of its Subsidiaries has any obligation to issue any additional securities or to pay for or repurchase any securities of Cengage.

(b) The authorized capital stock of Cengage Intermediate Holdco consists solely of 2,000 shares of common stock, par value \$0.01 per share, 1,001 shares of which are validly issued and outstanding and all of which are owned by Cengage. The authorized capital stock of Cengage Issuer consists solely of 7,500 shares of common stock, par value \$1.00 per share, 130 shares of which are validly issued and outstanding and all of which are owned by Cengage Intermediate Holdco.

4.6. Cengage Board Approval. The Cengage Board has, at a meeting duly called and held at which all directors of Cengage were present, duly and unanimously adopted resolutions (a) determining that this Agreement and the Transactions are fair to, and in the best interests of, Cengage and the holders of shares of Cengage Common Stock and (b) approving and declaring advisable this Agreement and the Transactions on the terms and subject to the conditions set forth in this Agreement. The board of directors and the sole stockholder of each of Cengage Intermediate Holdco and Cengage Issuer, has (a) determined that this Agreement and the Transactions, including each of the Mergers, as applicable, are fair to, and in the best interests of, their respective stockholders, and (b) approved and declared advisable this Agreement and the Transactions, including each of the Mergers, as applicable, on the terms and subject to the conditions set forth in this Agreement.

4.7. Cengage Brokers and Finders. Neither Cengage nor any of its Subsidiaries nor any of their respective officers or directors has employed any broker or finder or

incurred any liability for any brokerage fees, commissions or finder's fees in connection with the Transactions.

4.8. Cengage Voting Requirements. The Requisite Cengage Stockholder Approval and the approval of the sole stockholder of Cengage Intermediate Holdco and Cengage Issuer are the only votes of holders of any securities of Cengage and its Subsidiaries necessary to approve the Transactions.

ARTICLE V

COVENANTS

5.1. Interim Operations.

(a) From and after the date of this Agreement until the Parent Merger Effective Time, except as otherwise (w) expressly contemplated by this Agreement, (x) required by applicable Law, (y) approved in writing by the other Party (which approval shall not be unreasonably withheld, conditioned or delayed) or (z) set forth in Section 5.1(a) of such Party's Disclosure Letter, each of McGraw-Hill and Cengage covenants and agrees that it and its Subsidiaries shall use reasonable best efforts to conduct their businesses in all material respects in the Ordinary Course and to the extent consistent therewith, it and its Subsidiaries shall use their respective commercially reasonable efforts to preserve their business organizations intact and maintain existing relations and goodwill with Governmental Entities, customers, suppliers, licensors, licensees, distributors, creditors, partners and others having material relationships with such Party or its Subsidiaries.

(b) Without limiting the generality of and in furtherance of Section 5.1(a), from and after the date of this Agreement until the Parent Merger Effective Time, except as otherwise (w) expressly contemplated by this Agreement, (x) required by applicable Law, (y) approved in writing by the other Party (which approval shall not be unreasonably withheld, conditioned or delayed) or (z) set forth in Section 5.1(b) of such Party's Disclosure Letter, each Party, on its own account, shall not and shall cause its Subsidiaries not to (it being agreed that (1) the more specific matters addressed by this Section 5.1(b) shall govern the more general provisions of Section 5.1(a) and (2) no action by a Party or its Subsidiaries with respect to matters specifically addressed by any provision of Section 5.1(b) shall be deemed a breach of this sentence unless such action would constitute a breach of such provision of Section 5.1(b)):

(i) make or propose any change to such Party's or any of its Subsidiaries' Organizational Documents (other than (A) the Certificate Amendment, and (B) to reflect changes of officers, directors or managers of such Party or its Subsidiaries);

(ii) other than in the Ordinary Course, except for any such transactions solely among its direct or indirect wholly owned Subsidiaries, (A) merge or consolidate itself or any of its Subsidiaries with any other Person, or (B) except as set forth in the Certificate Amendment, restructure, recapitalize, reorganize or partially or completely liquidate;

(iii) acquire assets outside of the Ordinary Course from any other Person (A) with a purchase price in excess of \$10,000,000 in the aggregate in any transaction or series of related transactions (including incurring any Indebtedness related thereto), in each case, including any amounts or value reasonably expected to be paid in connection with a future earn-out, purchase price adjustment, release of “holdback” or similar contingent payment obligation, or (B) that would reasonably be expected to prevent, materially delay or materially impair the ability of such Party to consummate the Transactions;

(iv) issue, sell, pledge, dispose of, grant, transfer, encumber, or authorize the issuance, sale, pledge, disposition, grant, transfer, lease, license, guarantee or Encumbrance of, or otherwise enter into any Contract or understanding with respect to the voting of, any shares of its capital stock or of any of its Subsidiaries (other than the issuance of shares (A) by its direct or indirect wholly owned Subsidiary solely to it or another of its direct or indirect wholly owned Subsidiaries or (B) in respect of equity awards outstanding as of the date of this Agreement under the McGraw-Hill Stock Plans and Cengage Stock Plans in accordance with the terms of the applicable McGraw-Hill Stock Plan or Cengage Stock Plan, as applicable, and related award agreement, in each case, in effect as of the date of this Agreement), or securities convertible or exchangeable into or exercisable for any shares of such capital stock, or any options, warrants or other rights of any kind to acquire any shares of such capital stock or such convertible or exchangeable securities;

(v) create or incur any Encumbrance (other than any Permitted Encumbrances) over any material portion of such Party’s and its Subsidiaries’ consolidated properties and assets that is not incurred in the Ordinary Course on any of its assets or any of its Subsidiaries, except for Encumbrances (A) that are required by or automatically effected by Contracts in place as of the date hereof, or (B) that do not materially detract from the value of such assets and that do not materially impair the operations of such Party or any of its Subsidiaries;

(vi) make any loans, advances, guarantees or capital contributions to or investments in any Person other than (A) to or from Cengage and any of its direct or indirect wholly owned Subsidiaries or to or from McGraw-Hill and any of its direct or indirect wholly owned Subsidiaries, as applicable, (B) in accordance with Section 5.1(b)(xvii), or (C) extension of credit terms to customers in the Ordinary Course;

(vii) declare, set aside, make or pay any dividend or other distribution, payable in cash, stock, securities, property or otherwise, or a combination thereof, with respect to any of its capital stock (except for dividends paid by any direct or indirect wholly owned Subsidiary to it or to any other direct or indirect wholly owned Subsidiary);

(viii) reclassify, split, combine, subdivide or redeem, purchase, retire or otherwise acquire, directly or indirectly, any of its capital stock or securities convertible or exchangeable into or exercisable for any shares of its capital stock (or set aside any amount for any such purpose), other than with respect to the acquisition of shares of Existing McGraw-Hill Common Stock or Cengage Common Stock, as applicable, tendered by Employees in connection with a cashless exercise of options outstanding as of the date hereof or in order to pay Taxes in connection with the exercise or vesting of McGraw-Hill Equity Awards or Cengage Equity

Awards, as applicable, outstanding as of the date hereof, pursuant to the terms of the applicable McGraw-Hill Stock Plan or Cengage Stock Plan, and the applicable award agreement, in the Ordinary Course;

(ix) except to the extent expressly provided by, and consistent with, the applicable Party's capital expenditures budget set forth in Section 5.1(b)(ix) of such Party's Disclosure Letter, make or authorize any payment of, or accrual or commitment for, capital expenditures, except any such expenditure (A) not in excess of \$10,000,000 in the aggregate during any consecutive twelve (12)-month period, (B) not in excess of \$10,000,000 (net of insurance proceeds) in the aggregate that such Party reasonably determines are necessary to avoid a material business interruption or maintain the safety and integrity of any asset or property or (C) paid by any direct or indirect wholly owned Subsidiary to such Party or to any other direct or indirect wholly owned Subsidiary of such Party, in each case in response to any unanticipated and subsequently discovered events, occurrences or developments (provided, that such Party shall use its reasonable best efforts to consult with the other Party prior to making or agreeing to any significant capital expenditure in excess of the capital expenditures budget set forth in Section 5.1(b)(ix) that is otherwise permitted pursuant to this clause (ix));

(x) Other than in the Ordinary Course or as permitted pursuant to Section 5.1(b)(xvii), enter into any Contract that would have been a Material Contract had it been entered into prior to this Agreement, or amend, modify, supplement or waive, terminate, assign, convey, Encumber (except by a Permitted Encumbrance) or otherwise transfer, in whole or in part, rights or interest pursuant to or in any Material Contract, in each case other than any agreement among such Party and its direct or indirect wholly owned Subsidiaries or among such Party's direct or indirect wholly owned Subsidiaries (provided, that except as permitted pursuant to Section 5.1(b)(xvii), no such Party or any of its Subsidiaries shall (A) enter into, assign, convey, Encumber (except in connection with a Permitted Encumbrance) or otherwise transfer any Material Contract if existing on the date hereof, to the extent such Contract is or would be a Material Contract pursuant to clause (vi), (vii) or (xi) of Section 3.17(a) or (B) amend, modify or supplement any Material Contract to the extent the subject of such amendment, modification or supplement specifically relates to any provision of such Material Contract that causes such Contract to be a Material Contract pursuant to clause (vi) or (vii) of Section 3.17(a));

(xi) settle or compromise, or offer or propose to settle or compromise any material Proceeding (other than a Tax Proceeding), including before a Governmental Entity, which (A) requires payment by such Party or its Subsidiaries in excess of \$2,000,000 individually or \$5,000,000 in the aggregate or (B) imposes any non-monetary relief on such Party and its Subsidiaries or Affiliates, or, after the Parent Merger Effective Time, the Combined Corporation;

(xii) materially amend any financial accounting policies or procedures, except as required by changes to GAAP;

(xiii) make (other than in the Ordinary Course), change or revoke any material Tax election, change any material Tax accounting method, enter into any material closing agreement with respect to Taxes, settle any material Tax claim, audit, assessment, dispute or other Tax Proceeding for an amount materially in excess of the amount reserved

therefor on such Party's financial statements, surrender any right to, or claim for, a material Tax refund, or amend any material Tax Return;

(xiv) other than in the Ordinary Course, transfer, sell, lease, divest, cancel, abandon, allow to lapse or expire or otherwise dispose of, or permit or suffer to exist the creation of any Encumbrance (other than any Permitted Encumbrances) upon, any assets (tangible or intangible), product lines or businesses material to it and its Subsidiaries, taken as a whole, including capital stock of any of its Subsidiaries, except (A) for consideration not in excess of \$10,000,000 in the aggregate or (B) in connection with sales among such Party and its direct or indirect wholly owned Subsidiaries or among such Party's direct or indirect wholly owned Subsidiaries;

(xv) except as required by the terms of any Benefit Plan as in effect on the date hereof, as permitted under this Agreement or as required by applicable Law, increase or change the compensation or benefits payable to any Employee other than in the Ordinary Course; provided, that, notwithstanding the foregoing, except as expressly disclosed in Section 5.1(b)(xv) of such Party's Disclosure Letter or required pursuant to a Cengage Benefit Plan or McGraw-Hill Benefit Plan, as applicable, in effect as of the date of this Agreement, the Parties shall not: (A) grant any new long-term incentive or equity-based awards or amend or modify the terms of any such outstanding awards under any Cengage Benefit Plan or McGraw-Hill Benefit Plan, as applicable, (B) grant any retention or transaction bonuses, (C) increase or change the compensation or benefits payable to any Employee with an annual base salary in excess of \$400,000 (other than changes in health and welfare benefits that are generally applicable to all salaried Employees in the Ordinary Course), (D) terminate, enter into, amend or renew (or communicate any intention to take such action) any material Benefit Plan, other than routine amendments to health and welfare plans (other than severance plans) that do not materially increase benefits or result in a material increase in administrative costs or adopt any compensation or benefit arrangement that would be a material Benefit Plan if it were in existence as of the date of this Agreement, (E) accelerate the vesting of any compensation for the benefit of any Employee, (F) increase or change the severance terms applicable to any Employee, (G) take any action to fund or secure the payment of any amounts under any Benefit Plan, (H) other than as required by GAAP, change any assumptions used to calculate funding or contribution obligations under any Benefit Plan, or increase or accelerate the funding rate in respect of any Benefit Plan, or (I) terminate the employment of any Employee with a base salary in excess of \$400,000 (other than for cause) or hire any new Employee with a base salary in excess of \$400,000 (other than as a replacement hire receiving substantially similar terms of employment);

(xvi) recognize any Labor Organization as the representative of any of the Employees of the Party or its Subsidiaries, or become a party to, establish, adopt, amend, commence negotiations for or terminate any collective bargaining agreement or other similar written agreement with a Labor Organization, in each case, other than in the Ordinary Course or as required by applicable Law;

(xvii) incur any Indebtedness (including the issuance of any debt securities, warrants or other rights to acquire any debt security) or guarantee any such Indebtedness, except for (A) Indebtedness for borrowed money incurred in the Ordinary Course under Cengage's or McGraw-Hill's, as applicable, revolving credit facilities and other lines of

credit existing as of the date of this Agreement, (B) guarantees by Cengage or any direct or indirect wholly owned Subsidiary of Cengage of Indebtedness of Cengage or any other direct or indirect wholly owned Subsidiary of Cengage, (C) guarantees by McGraw-Hill or any direct or indirect wholly owned Subsidiary of McGraw-Hill of Indebtedness of McGraw-Hill or any other direct or indirect wholly owned Subsidiary of McGraw-Hill, (D) Indebtedness incurred to refinance or replace existing Indebtedness of such Party; provided that, in each case of this clause (D), (i) such Indebtedness shall not be incurred or committed prior to the date that is eight months after the date of this Agreement, (ii) such Indebtedness shall not have an aggregate principal amount (and, in the case of any revolving facility, shall also not have aggregate commitments) greater than the Indebtedness (and commitments, if applicable) being refinanced or replaced, (iii) such Indebtedness shall have market economic and other terms, (iv) such Indebtedness shall be prepayable or redeemable at any time without premium or penalty, (v) none of the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated hereby or to be consummated in connection herewith shall conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation under or any other material right of the lenders (or their agents or trustees) under or any loss of a material benefit of such Party and its Subsidiaries under, or result in the creation of any Encumbrance under, such Indebtedness, (vi) none of such Party or its Subsidiaries shall pay or incur, or agree to pay or incur, any fee, cost, penalty, premium, expense or other liability in connection therewith, and (vii) the consummation of such refinancing or replacement, including the terms and conditions of such Indebtedness, would not reasonably be expected to cause the condition set forth in Section 6.1(d) to not be satisfied at the Closing, (E) Indebtedness incurred pursuant to letters of credit, performance bonds or other similar arrangements in the Ordinary Course, (F) interest, exchange rate and commodity swaps, options, futures, forward contracts and similar derivatives or other hedging Contracts (1) not entered into for speculative purposes and (2) entered into in the Ordinary Course and in compliance with such Party's risk management and hedging policies or practices in effect on the date of this Agreement, (G) Indebtedness incurred by mutual agreement of the Parties in accordance with Section 5.5 or (H) Indebtedness incurred among such Party and its direct or indirect wholly owned Subsidiaries or among such Party's direct or indirect wholly owned Subsidiaries;

(xviii) acquire or sell any fee interest in real property;

(xix) enter into, amend or modify in any material respect or terminate any Real Property Lease other than in the Ordinary Course; or

(xx) agree or commit to do any of the foregoing.

(c) Nothing contained in this Agreement shall give Cengage or McGraw-Hill, directly or indirectly, the right to control or direct the other Party's operations prior to the Parent Merger Effective Time. Prior to the Parent Merger Effective Time, each Party shall exercise, consistent with the terms and conditions of this Agreement, complete control and supervision over its and its Subsidiaries' respective operations. Notwithstanding anything in this Agreement to the contrary, no consent of Cengage or McGraw-Hill shall be required with respect to any matter set forth in this Section 5.1 or elsewhere in this Agreement to the extent that the requirement of such consent would, upon the advice of outside antitrust legal counsel, violate

applicable Antitrust Law, provided that prior notice of such advice shall be provided to outside antitrust legal counsel for the other Party on a confidential, outside counsel only basis. Nothing in this Agreement, including any of the actions, rights or restrictions set forth herein, shall be interpreted in such a way as to require compliance by any Party if such compliance would result in the violation of any rule, regulation or policy of any applicable Law.

5.2. Exclusive Dealing.

(a) No Solicitation. During the period from the date of this Agreement until the earlier of the Parent Merger Effective Time and the termination of this Agreement in accordance with its terms, Cengage and McGraw-Hill each shall not, and none of their respective Subsidiaries shall, and shall cause their and their respective Subsidiaries' directors, officers and employees not to, and not permit its investment bankers, attorneys, accountants and other advisors or representatives to (such directors, officers, employees, investment bankers, attorneys, accountants and other advisors or representatives, collectively, "**Representatives**"), directly or indirectly: (i) initiate, solicit, propose, knowingly encourage (including by way of furnishing information) or knowingly take any action designed to facilitate any inquiry regarding, or the making of any inquiry, proposal or offer that constitutes or would reasonably be expected to lead to, an Acquisition Proposal; (ii) engage in, continue or otherwise participate in any discussions with or negotiations relating to, or otherwise cooperate in any way with, any Acquisition Proposal or any inquiry, proposal or offer that would reasonably be expected to lead to an Acquisition Proposal (other than to state that the terms of this provision prohibit such discussions or negotiations); (iii) provide any nonpublic information to any Person in connection with any Acquisition Proposal or any inquiry, proposal or offer that constitutes or would reasonably be expected to lead to an Acquisition Proposal; or (iv) otherwise knowingly facilitate any effort or attempt to make an Acquisition Proposal or any inquiry, proposal or offer that constitutes or would reasonably be expected to lead to an Acquisition Proposal.

(b) Representatives. Any violation of the restrictions contained in this Section 5.2 by any of a Party's Representatives shall be deemed to be a breach of this Section 5.2 by such Party. The Parties shall use reasonable best efforts to ensure that their respective Representatives are aware of the provisions of this Section 5.2.

(c) Termination of Existing Discussions. Cengage and McGraw-Hill each shall, shall cause their respective Subsidiaries to, and shall use their reasonable best efforts to cause their respective Representatives to, immediately cease and cause to be terminated any existing activities, discussions or negotiations with any Person conducted heretofore with respect to any Acquisition Proposal, or proposal that would reasonably be expected to lead to an Acquisition Proposal.

5.3. Cooperation; Efforts to Consummate.

(a) On the terms and subject to the conditions set forth in this Agreement, Cengage and McGraw-Hill shall cooperate with each other and use (and shall cause their respective Affiliates to use) their respective reasonable best efforts to take or cause to be taken all actions, and to do or cause to be done all things, reasonably necessary, proper or advisable on its part under this Agreement and applicable Law to cause the conditions to Closing to be

satisfied as promptly as reasonably practicable and advisable (and in any event no later than the Outside Date) and consummate and make effective the Transactions as soon as reasonably practicable, including (i) preparing and filing as promptly as reasonably practicable and advisable all documentation to effect all necessary notices, reports and other Filings, including by filing no later than thirty (30) calendar days after the date of this Agreement the notification and report form required under the HSR Act (unless agreed otherwise by the parties), (ii) if a Request for Additional Information and Documentary Material ("**Second Request**") has been issued under the HSR Act, by using reasonable best efforts to certify substantial compliance as promptly as practicable but in any event, within 120 days of receipt of the Second Request, (iii) making any necessary Filings under the Australian Foreign Acquisitions and Takeovers Act 1975 (Cth) or its associated regulations (the "**Required FI Approval**"), (iv) working jointly to determine any other Filings under any Antitrust Laws that may be necessary or advisable (the "**Other Antitrust Approvals**"), (v) making any other such Filings with governmental entities as soon as practicable and obtaining as promptly as reasonably practicable (and in any event no later than the Outside Date) all actions or nonactions, waivers, consents, registrations, expirations or terminations of waiting periods, clearances, approvals, permits and authorizations necessary or advisable to be obtained from any third party or any Governmental Entity in order to consummate the Transactions, (vi) executing and delivering any additional instruments necessary to consummate the Transactions and (vii) refraining from taking any action that would reasonably be expected to impede, interfere with, prevent or materially delay the consummation of the Transactions; provided, that in no event shall either Party or any of their respective Subsidiaries be permitted to pay prior to the Closing any fee, penalty or other consideration to any third party for any consent required for the consummation of the Transactions under any Contract without the prior written consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed).

(b) Cengage and McGraw-Hill shall jointly develop and consult and cooperate in all respects with one another, and consider in good faith the views of one another, in connection with the form and content of any analyses, appearances, presentations, memoranda, briefs, arguments, opinions and proposals made with, or submitted to, any third party or any Governmental Entity in connection with the Transactions. Neither Cengage nor McGraw-Hill nor any Affiliate of Cengage or McGraw-Hill shall permit any of its officers or other Representatives to participate in any substantive meeting, telephone call or conference with any Governmental Entity in respect of any Filing, investigation or otherwise relating to the Transactions unless, to the extent reasonably practicable, it consults with the other Party in advance and, to the extent permitted by such Governmental Entity, gives the other Party the opportunity to attend and participate therein. Each of the Parties shall use reasonable best efforts to furnish to each other all information required for any Filing, other than confidential or proprietary information not directly related to the Transactions, and to give the other Party reasonable prior notice of any such Filing and, to the extent practicable, keep the other Party reasonably informed with respect to the status of each Consent sought from a Governmental Entity in connection with the Transactions and the material communications between such Party and such Governmental Entity, and, to the extent practicable, permit the other Party to review and discuss in advance, and consider in good faith the views of the other in connection with any such Filing or communication. Each of the Parties shall promptly furnish the other with copies of all correspondence, Filings (except for the Parties' initial HSR Act filings) and material communications between them and their Affiliates and Representatives, on one hand, and any

such Governmental Entity or its respective staff on the other hand, with respect to the Transactions in order for such other Party to meaningfully consult and participate in accordance with this Section 5.3, provided, that materials furnished pursuant to this Section 5.3 may be designated “Highly Confidential Information” pursuant to the Clean Team Agreement, dated as of February 11, 2019, between Cengage and McGraw-Hill or redacted as necessary to address reasonable confidentiality concerns. Subject to applicable Law, each of Cengage and McGraw-Hill and their respective Subsidiaries shall not agree to any actions, restrictions or conditions with respect to obtaining any Consent in connection with the Transactions, and neither Party shall directly or indirectly agree to extend any applicable waiting period (including under the HSR Act) or enter into any agreement with a Governmental Entity related to this Agreement or the Transactions, in each case, without the prior written consent of the other Party. In exercising the foregoing rights, each of Cengage and McGraw-Hill shall act reasonably and as promptly as reasonably practicable.

(c) Subject to Section 6.1(b) of such Party’s Disclosure Letter, neither McGraw-Hill nor Cengage shall, and each of them shall cause their respective Affiliates not to, take any action, including acquiring any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, other business combination, asset, stock or equity purchase, or otherwise), in each case, that could reasonably be expected to materially impair, adversely affect or materially delay obtaining or making any Filing contemplated by this Section 5.3 or the timely receipt thereof.

(d) Without limiting the generality of the undertakings pursuant to this Section 5.3, but on the terms and subject to the conditions set forth in this Agreement, including Section 5.3(e), each of Cengage and McGraw-Hill agree to take or cause to be taken the following actions:

(i) subject to applicable Law, the prompt provision to each and every federal, state, local or foreign court or Governmental Entity with jurisdiction over enforcement of any applicable Antitrust Law (each, a “**Governmental Antitrust Entity**”) of non-privileged information and documents requested by any Governmental Antitrust Entity or that are necessary, proper or advisable to permit consummation of the Transactions; and

(ii) subject to Section 5.3(e), the prompt use of its reasonable best efforts to take all reasonably necessary, proper or advisable steps to (A) avoid the entry of, and (B) resist, vacate, modify, reverse, suspend, prevent, eliminate or remove any actual, anticipated or threatened temporary, preliminary or permanent injunction or other Order, decree, decision, determination or judgment entered or issued, or that becomes reasonably foreseeable to be entered or issued, in any Proceeding or inquiry of any kind, in the case of each of the foregoing clauses (A) and (B), that would reasonably be expected to delay, restrain, prevent, enjoin or otherwise prohibit or make unlawful the consummation of the Transactions, including (I) the defense through litigation (excluding any appeals) on the merits of any claim asserted in any court, agency or other Proceeding by any person or entity (including any Governmental Antitrust Entity) seeking to delay, restrain, prevent, enjoin or otherwise prohibit consummation of the Transactions and (II) (x) proposing, negotiating, committing to and agreeing to sell, lease, license, divest or otherwise dispose of, or hold separate pending such disposition, (y) agreeing to restrictions or actions that after the Parent Merger Effective Time would limit the Combined

Corporation's or its Subsidiaries' or Affiliates' freedom of action or operations with respect to, or its ability to retain, one or more of its or its Subsidiaries' businesses, product lines or assets or (z) agreeing to enter into, modify or terminate existing contractual relationships, contractual rights or contractual obligations, and promptly effecting the sale, lease, license, divestiture, disposal and holding separate of, assets, operations, rights, product lines, licenses, businesses or interests therein of Cengage or McGraw-Hill or either of their respective Subsidiaries (and the entry into agreements with, and submission to Orders of, the relevant Governmental Antitrust Entity giving effect thereto or to such restrictions or actions) (such sale, lease, license, defense through litigation, divestiture, disposal and holding separate or other action described in clauses (I) or (II), a "**Regulatory Remedy**") if such Regulatory Remedy should be reasonably necessary, proper or advisable so as to permit the consummation of the Transactions on a schedule as close as possible to that contemplated herein. Nothing in this Section 5.3(d) shall require either McGraw-Hill or Cengage to effectuate or agree to effectuate any Regulatory Remedy unless such Regulatory Remedy is conditioned upon the Closing. No action taken pursuant to this Section 5.3 shall be considered for the purposes of determining whether a Material Adverse Effect has occurred.

(e) Notwithstanding anything in this Section 5.3 to the contrary, neither this Section 5.3 nor the "reasonable best efforts" standard herein shall require, or be construed to require, Cengage or McGraw-Hill or any of their respective Subsidiaries or other Affiliates to (i) waive any of the conditions set forth in Article VI as they apply to such Party, (ii) take, effect or agree to any Regulatory Remedy unless such Regulatory Remedy is conditioned upon the Closing, (iii) effect or agree to any divestiture of assets of Cengage or McGraw-Hill that produced net revenues of, in the aggregate, \$175,000,000 during calendar year 2018 (this clause (iii), a "**Burdensome Effect**").

(f) For the avoidance of doubt, Cengage and McGraw-Hill shall use reasonable best efforts to cooperate with each other and work in good faith in formulating any Regulatory Remedy.

5.4. Status. Subject to applicable Law and except as otherwise required by any Governmental Entity, Cengage and McGraw-Hill each shall keep the other apprised of the status of material matters relating to completion of the Transactions, including promptly furnishing the other with copies of notices or other substantive communications received by Cengage or McGraw-Hill, as applicable, or any of its Subsidiaries, from any third party or any Governmental Entity with respect to the Transactions.

5.5. Financing and Indebtedness.

(a) During the period from the date of this Agreement to the Parent Merger Effective Time or the earlier termination of this Agreement pursuant to its terms, the Parties hereto shall cooperate in good faith to mutually determine, and use reasonable best efforts to implement, any necessary, appropriate or desirable arrangements, in each case in anticipation of the consummation of the Transactions contemplated by this Agreement, regarding (i) each Party's credit agreements, indentures, intercreditor and collateral arrangements or other documents governing or relating to Indebtedness of the Parties, including arrangements by way of amendments, tenders, exchanges, consents, redemptions, or payoffs with respect thereto and

(ii) new financings incurred to replace or refinance any Party's existing indebtedness or to provide reasonable working capital for the companies following the Mergers (any such arrangement, other than any arrangement or financing which is consummated by the applicable Party or its Subsidiaries pursuant to Section 5.1(b)(xvii)(A)-(F), a "**Financing Transaction**"), including the Financing Amendments. Cengage shall indemnify and hold harmless McGraw-Hill, its Subsidiaries and their respective directors, officers, employees and Representatives from and against any and all losses, damages, claims, costs or expenses (including reasonably, documented out-of-pocket attorneys' fees) suffered or incurred by any of them in connection with any Financing Transaction solely to the extent arising from (i) information provided by or on behalf of Cengage, its Subsidiaries or their respective affiliates or shareholders or the Representatives thereof for inclusion in any offering documents or similar materials relating to any Financing Transaction or (ii) the bad faith, gross negligence or willful misconduct of Cengage, its Subsidiaries or their respective affiliates or shareholders or the Representatives thereof in connection with any Financing Transaction. McGraw-Hill shall indemnify and hold harmless Cengage, its Subsidiaries and their respective directors, officers, employees and Representatives from and against any and all losses, damages, claims, costs or expenses (including reasonably, documented out-of-pocket attorneys' fees) suffered or incurred by any of them in connection with any Financing Transaction solely to the extent arising from (i) information provided by or on behalf of McGraw-Hill, its Subsidiaries or their respective affiliates or shareholders or the Representatives thereof for inclusion in any offering documents or similar materials relating to any Financing Transaction or (ii) the bad faith, gross negligence or willful misconduct of McGraw-Hill, its Subsidiaries or their respective affiliates or shareholders or the Representatives thereof in connection with any Financing Transaction. This Section 5.5(a) shall be given effect whether or not the Closing occurs and shall survive the termination of this Agreement.

(b) Cengage and McGraw-Hill shall each bear fifty percent (50%) of the reasonable and documented out-of-pocket costs, penalties, premiums, and expenses incurred by the Parties in connection with any Financing Transaction expenses (including, without limitation, (x) fees, disbursements and other charges of the arrangers, lenders and their counsel in connection with the Financing Transaction and (y) fees, disbursements and other charges of any rating agency (payable in connection therewith)), and which shall be promptly paid by the applicable Party from time-to-time upon provision of applicable written invoices by the other Party. Notwithstanding anything herein to the contrary, this Section 5.5(b) shall be given effect whether or not the Closing occurs and shall survive the termination of this Agreement.

5.6. Information; Access and Reports.

(a) Subject to applicable Law and the other provisions of this Section 5.6, Cengage and McGraw-Hill each shall (and shall cause its Affiliates to), upon request by the other, use reasonable best efforts to furnish the other with all information concerning itself, its Subsidiaries, directors, officers and stockholders and such other matters as may be reasonably necessary or advisable in connection with any statement, filing, notice or application made by or on behalf of McGraw-Hill, Cengage or any of their respective Subsidiaries to any third party or any Governmental Entity in connection with the Transactions, and shall (and shall cause its Subsidiaries to), upon giving of reasonable notice by the other Party, use reasonable best efforts to afford the other Party's officers and other authorized Representatives reasonable access,

during normal business hours following reasonable advance notice throughout the period prior to the Parent Merger Effective Time, to its officers, Employees, agents, Contracts, books and records (including the work papers of such Party's independent accountants upon receipt of any required consents from such accountants and subject to the execution of customary access letters), as well as properties, offices and other facilities, and, during such period, each shall (and shall cause its Subsidiaries to) use reasonable best efforts to furnish promptly to the other all information concerning its business, properties and personnel as may reasonably be requested, including in connection with any other statement, filing, notice or application made by or on behalf of McGraw-Hill, Cengage or any of their respective Subsidiaries to any third party or any Governmental Entity in connection with the consummation of the Transactions.

(b) The foregoing provisions of this Section 5.6 shall not require and shall not be construed to require either Cengage or McGraw-Hill to permit any access to any of its officers, Employees, agents, Contracts, books or records, or its properties, offices or other facilities, or to permit any inspection, review, sampling or audit, or to disclose or otherwise make available any information that in the reasonable judgment of Cengage or McGraw-Hill, as applicable, would (i) unreasonably interfere with such Party's or its Subsidiaries' business operations, (ii) result in the disclosure of any trade secrets of any third parties, competitively sensitive information, information concerning the valuation of Cengage, McGraw-Hill or any of their respective Subsidiaries or violate the terms of any confidentiality provisions in any agreement with a third party entered into prior to the date of this Agreement, (iii) result in a violation of applicable Law (including Antitrust Law), (iv) waive the protection of any attorney-client privilege or (v) result in the disclosure of any personal information that would expose the Party to the risk of liability. In the event that Cengage or McGraw-Hill, as applicable, objects to any request submitted pursuant to and in accordance with this Section 5.6 and withholds information on the basis of the foregoing clauses (i) through (v), Cengage or McGraw-Hill, as applicable, shall, to the extent permitted by applicable Law, inform the other Party as to the general nature of what is being withheld and shall use reasonable best efforts to make appropriate substitute arrangements to permit reasonable disclosure that does not suffer from any of the foregoing impediments. Each of Cengage and McGraw-Hill, as it deems advisable and necessary, may reasonably designate competitively sensitive material provided to the other as "Outside Counsel Only Material" or with similar restrictions. Such materials and the information contained therein shall be given only to the outside legal counsel of the recipient, or otherwise as the restriction indicates, and be subject to any additional confidentiality or joint defense agreement between the Parties. All requests for information made pursuant to this Section 5.6 shall be directed to the Person designated by Cengage or McGraw-Hill, as applicable. All information exchanged or made available shall be governed by the terms of the Confidentiality Agreement.

(c) To the extent that any of the information or material furnished pursuant to this Section 5.6 or otherwise in accordance with the terms of this Agreement may include material subject to the attorney-client privilege, work product doctrine or any other applicable privilege, including those concerning pending or threatened Proceedings, the Parties understand and agree that they have a commonality of interest with respect to such matters and it is their desire, intention and mutual understanding that the sharing of such material is not intended to, and shall not, waive or diminish in any way the confidentiality of such material or its continued protection under the attorney-client privilege, work product doctrine or other applicable

privilege. All such information that is entitled to protection under the attorney-client privilege, work product doctrine or other applicable privilege shall remain entitled to such protection under these privileges, this Agreement, and under the joint defense doctrine.

(d) No exchange of information or investigation by McGraw-Hill or its Representatives shall affect or be deemed to affect, modify or waive the representations and warranties of Cengage set forth in this Agreement, and no investigation by Cengage or its Representatives shall affect or be deemed to affect, modify or waive the representations and warranties of McGraw-Hill set forth in this Agreement.

5.7. Publicity. The initial press release with respect to the execution of this Agreement shall be a joint release to be reasonably agreed upon by the Parties. Cengage and McGraw-Hill shall consult with each other before issuing any other press release or making any public statement to the extent related to this Agreement or the Transactions and shall not issue any such press release or make any such public statement without the prior consent of the other, such consent not to be unreasonably withheld, conditioned or delayed; provided, that (a) any such press release or public statement as may be required by applicable Law may be issued prior to such consultation if the Party making the release or statement has used its reasonable best efforts to consult with the other Party on a timely basis and (b) each Party may issue public announcements or make other public disclosures regarding this Agreement or the Transactions that consist solely of information previously disclosed in press releases or public statements previously approved by either Cengage or McGraw-Hill or made by either Cengage or McGraw-Hill in compliance with this Section 5.7; provided, further, that the first sentence of this Section 5.7 shall not apply to (x) any disclosure of information concerning this Agreement in connection with any dispute between the parties regarding this Agreement and (y) internal announcements to employees which are not made generally available to the public.

5.8. Employee Benefits.

(a) McGraw-Hill shall provide, or shall cause to be provided, (i) the Employees of Cengage and its Subsidiaries at the Parent Merger Effective Time who continue to remain employed with McGraw-Hill or its Subsidiaries (the “**Cengage Continuing Employees**”) and (ii) the Employees of McGraw-Hill and its Subsidiaries at the Parent Merger Effective Time who continue to remain employed with McGraw-Hill or its Subsidiaries (the “**McGraw-Hill Continuing Employees**”), with: (x) during the period commencing at the Parent Merger Effective Time and ending on the one (1)-year anniversary of the Closing Date, (A) base salary or base wage and annual cash incentive opportunities, that, in each case, are no less favorable to such Cengage Continuing Employee or McGraw-Hill Continuing Employee, as applicable, than those provided to such Cengage Continuing Employee or McGraw-Hill Continuing Employee, as applicable, immediately prior to the Parent Merger Effective Time and (B) severance benefits and protections that are no less favorable than the greater of (I) those provided to similarly situated Cengage Continuing Employees immediately prior to the Parent Merger Effective Time and (II) those provided to similarly situated McGraw-Hill Continuing Employees immediately prior to the Parent Merger Effective Time; and (y) during the period commencing at the Parent Merger Effective Time and ending on December 31 of the year during which the Parent Merger Effective Time occurs, health, welfare and retirement benefits that are no less favorable, in the aggregate, to the Cengage Continuing Employees or McGraw-Hill Continuing Employees, as

applicable, than those provided to such Cengage Continuing Employees or McGraw-Hill Continuing Employees, as applicable, immediately prior to the Parent Merger Effective Time.

(b) With respect to any Benefit Plan in which any Cengage Continuing Employee or McGraw-Hill Continuing Employee (collectively, the “**Continuing Employees**”) first becomes eligible to participate on or after the Parent Merger Effective Time, each Party shall (i) make commercially reasonable efforts to (A) cause any pre-existing conditions or limitations and eligibility waiting periods under any of its group health plans to be waived with respect to the other Party’s Continuing Employees and their eligible dependents, and (B) give the other Party’s Continuing Employees credit for the plan year in which the Parent Merger Effective Time occurs (or the plan year in which the Continuing Employee first becomes eligible to participate in the applicable Benefit Plan, if later) towards applicable deductibles and annual out-of-pocket limits for medical expenses incurred during the plan year but prior to the Parent Merger Effective Time (or eligibility date, as applicable), for which payment has been made and (ii) give the other Party’s Continuing Employees service credit for such Continuing Employee’s employment with the other Party for purposes of vesting, benefit accrual and eligibility to participate under each applicable Benefit Plan, as if such service had been performed with such Party, except for benefit accrual under defined benefit pension plans, for purposes of qualifying for subsidized early retirement benefits (unless otherwise required under applicable Law) or to the extent it would result in a duplication of benefits.

(c) The Parties shall cooperate in good faith to determine whether Section 280G of the Code shall apply in connection with the Transactions, and, if so, which Party shall have undergone a change in control for purposes of Section 280G of the Code (the “**280G Party**”). The 280G Party, if any, shall, prior to the Closing Date, (i) solicit, and make commercially reasonable efforts to obtain, a waiver from each “disqualified individual” (as defined in Section 280G(c) of the Code) who would be reasonably expected to potentially receive an “excess parachute payment” (as defined in Section 280G(b)(5) of the Code) of such individual’s right to receive or retain such payment and (ii) solicit the approval of the 280G Party’s shareholders of the right of any such “disqualified individual” who executed a waiver under clause (i) to receive or retain any and all payments and other benefits contingent on the consummation of the Transactions (within the meaning of Section 280G(b)(2)(A)(i) of the Code). All materials produced by the 280G Party in connection with this Section 5.8(c) shall be submitted to the other Party at least three (3) Business Days in advance for the other Party’s review and comment and the 280G Party shall consider any of the other Party’s requested changes or comments in good faith and not unreasonably omit them.

(d) Subject to Section 5.1, nothing contained in this Agreement is intended to (i) be treated as an amendment of any particular Cengage Benefit Plan or McGraw-Hill Benefit Plan, (ii) prevent Cengage, McGraw-Hill, the Combined Corporation or any of their Affiliates from amending or terminating any of their respective Benefit Plans in accordance with their terms, or (iii) prevent Cengage, McGraw-Hill, the Combined Corporation or any of their Affiliates, after the Parent Merger Effective Time, from terminating the employment of any Cengage Continuing Employee or McGraw-Hill Continuing Employee. Nothing contained in this Agreement is intended to create any third-party beneficiary rights in any Employee of Cengage, McGraw-Hill or any of their Subsidiaries, any beneficiary or dependent thereof, or any collective bargaining representative thereof (including any Labor Organization), with respect to

the compensation, terms and conditions of employment or benefits that may be provided to any Cengage Continuing Employee or McGraw-Hill Continuing Employee by Cengage, McGraw-Hill, the Combined Corporation or any of their Affiliates or under any Benefit Plan which Cengage, McGraw-Hill, the Combined Corporation or any of their Affiliates may maintain.

5.9. Certain Tax Matters.

(a) The Parties (as applicable) intend that, for U.S. federal income Tax purposes, (x) the Parent Merger shall qualify as a “reorganization” within the meaning of Section 368(a) of the Code, and adopt this Agreement as a “plan of reorganization” for purposes of Sections 354 and 361 of the Code, and (y) each of the Holdco Merger and Issuer Merger shall qualify as a “liquidation” within the meaning of Sections 332(a) and 337(a) of the Code or as a “reorganization” within the meaning of Section 368(a) of the Code, and adopt this Agreement as a “plan of liquidation” or “plan of reorganization” (as applicable). None of McGraw-Hill, Cengage or any of their respective Subsidiaries shall take or cause to be taken, or fail to take, any action, whether before or after the Parent Merger Effective Time, that could reasonably be expected to prevent or impede (i) the Parent Merger from qualifying as a “reorganization” within the meaning of Section 368(a) of the Code or (ii) each of the Holdco Merger and the Issuer Merger from qualifying as a “liquidation” within the meaning of Sections 332(a) and 337(a) of the Code or as a “reorganization” within the meaning of Section 368(a) of the Code.

(b) Each of McGraw-Hill and Cengage shall use its reasonable best efforts and shall cooperate in good faith with one another to obtain the opinions of counsel referred to in Section 6.2(d) and Section 6.3(e). In connection therewith, McGraw-Hill shall deliver to Paul, Weiss, Rifkind, Wharton & Garrison LLP, counsel to McGraw-Hill (“**McGraw-Hill’s Counsel**”), and Wachtell, Lipton, Rosen & Katz, special counsel to Cengage (“**Cengage’s Counsel**”), a representation letter dated as of the Closing Date and signed by an officer of McGraw-Hill (the “**McGraw-Hill Tax Representation Letter**”), and Cengage shall deliver to McGraw-Hill’s Counsel and Cengage’s Counsel a representation letter dated as of the Closing Date and signed by an officer of Cengage (the “**Cengage Tax Representation Letter**”); provided that, in each case, the representation letter shall be as reasonably necessary or appropriate to allow McGraw-Hill’s Counsel and Cengage’s Counsel each to provide the opinions of counsel referred to in Section 6.2(d) and Section 6.3(e).

(c) Except to the extent payable with respect to the delivery of the Merger Consideration to a person other than a registered holder of Cengage Common Stock, McGraw-Hill shall be exclusively responsible for any transfer or similar Taxes imposed on McGraw-Hill, Cengage or any of their respective Subsidiaries as a result of the closing of the Parent Merger.

(d) On or prior to the Closing Date, Cengage shall deliver to McGraw-Hill (i) a certification from Cengage pursuant to Treasury Regulations Section 1.1445-2(c)(3), in form and substance reasonably satisfactory to McGraw-Hill, dated no more than thirty (30) days prior to the Closing Date and signed by a responsible corporate officer of Cengage, that Cengage Common Stock is not a “United States real property interest” (as defined in Section 897(c)(1) of the Code) and (ii) a certification from Cengage pursuant to Treasury Regulations Section 1.1445-2(b)(2)(iv)(B), in form and substance reasonably satisfactory to McGraw-Hill, signed by a responsible corporate officer of Cengage, that Cengage is not a “foreign person” for U.S. federal

income Tax purposes. If Cengage fails to deliver the documentation described in clause (i) of the preceding sentence, notwithstanding anything contained herein to the contrary, McGraw-Hill's sole remedies shall be limited to those set forth in Section 2.6 until it has received from the applicable holder of Cengage Common Stock the cash amount to which it is entitled (or, for the avoidance of doubt, a properly executed IRS Form W-9 (or such other documentation, in form and substance reasonably satisfactory to McGraw-Hill, for evidencing an exemption from Tax pursuant to Section 897 of the Code) from the applicable holder of Cengage Common Stock).

5.10. Expenses. Whether or not the Mergers are consummated, all costs and expenses incurred by a Party in connection with the preparation, negotiation, execution and performance of this Agreement and the Transactions, including all fees and expenses of its Representatives, shall be paid by the Party incurring such expense, except that (a) expenses described on Section 5.10 of the Cengage Disclosure Letter and McGraw-Hill Disclosure Letter shall be shared equally by Cengage and McGraw-Hill; (b) expenses incurred in connection with any filing fees in connection with the HSR Act and any other Antitrust Law shall be shared equally by Cengage and McGraw-Hill; (c) expenses incurred in connection with any third party advisor that, as part of such advisor's services in connection with the Transaction, advised both of the Parties, shall be shared equally by Cengage and McGraw-Hill regardless of whether Cengage or McGraw-Hill initially engaged such advisor, provided, that the Party that did not initially engage such advisor shall have consented to such engagement or such advisor is set forth on Section 5.10 of the McGraw-Hill Disclosure Letter; and (d) expenses in connection with any Financing Transaction shall be allocated in accordance with Section 5.5(b).

5.11. Indemnification; Directors' and Officers' Insurance.

(a) From and after the Parent Merger Effective Time, the Combined Corporation shall indemnify and hold harmless to the fullest extent as such individuals would be indemnified as of the date of this Agreement under applicable Law, Cengage's Organizational Documents and any indemnification agreements in effect as of the date of this Agreement, each present and former (determined as of the Parent Merger Effective Time) director and officer of Cengage or any of its Subsidiaries or any Person who prior to or at the Parent Merger Effective Time served at the request of Cengage or any of its Subsidiaries as a director or officer of another Person in which Cengage or any of its Subsidiaries has an equity investment, in each case, when acting in such capacity (the "**Indemnified Parties**"), against any costs or expenses (including reasonable attorneys' fees, costs and expenses), judgments, inquiries, fines, losses, claims, damages or liabilities incurred in connection with, arising out of or otherwise related to any Proceeding, in connection with, arising out of or otherwise related to matters existing or occurring at or prior to the Parent Merger Effective Time, whether asserted or claimed prior to, at or after the Parent Merger Effective Time, including in connection with (i) this Agreement or the Transactions, and (ii) actions to enforce this provision or any other indemnification or advancement right of any Indemnified Party, and the Combined Corporation shall also advance expenses as incurred to the fullest extent that such individual would have been entitled to under applicable Law, Cengage's Organizational Documents and any indemnification agreements in effect as of the date of this Agreement; provided that any Person to whom expenses are advanced provides an undertaking to repay such advances if it is ultimately determined by final adjudication that such Person is not entitled to indemnification.

(b) Prior to the Parent Merger Effective Time, Cengage shall and, if Cengage is unable to, McGraw-Hill shall cause the Combined Corporation as of the Parent Merger Effective Time to, obtain and fully pay the premium for “tail” insurance policies for the extension of the directors’ and officers’ liability coverage of Cengage’s existing directors’ and officers’ insurance policies and fiduciary liability insurance policies for a claims reporting or discovery period of six (6) years from and after the Parent Merger Effective Time (the “**Tail Period**”) from one or more insurance carriers with the same or better credit rating as Cengage’s insurance carrier as of the date of this Agreement with respect to directors’ and officers’ liability insurance and fiduciary liability insurance (collectively, “**D&O Insurance**”) with terms, conditions, retentions and limits of liability that are at least as favorable to the insureds as Cengage’s existing policies with respect to matters existing or occurring at or prior to the Parent Merger Effective Time (including in connection with this Agreement or the Transactions). If Cengage or McGraw-Hill and the Combined Corporation for any reason fail to obtain such “tail” insurance policies as of the Parent Merger Effective Time, the Combined Corporation shall continue to maintain in effect for the Tail Period the D&O Insurance in place as of the date of this Agreement with terms, conditions, retentions and limits of liability that are at least as favorable to the insureds as provided in Cengage’s existing policies as of the date of this Agreement, or the Combined Corporation shall purchase comparable D&O Insurance for the Tail Period with terms, conditions, retentions and limits of liability that are at least as favorable as provided in Cengage’s existing policies as of the date of this Agreement; provided, that in no event shall the aggregate cost of the D&O Insurance exceed during the Tail Period three hundred percent (300%) of the current aggregate annual premium paid by Cengage for such purpose; and provided, further, that if the cost of such insurance coverage exceeds such amount, the Combined Corporation shall obtain a policy with the greatest coverage available for a cost not exceeding such amount.

(c) Any Indemnified Party wishing to claim indemnification under this Section 5.11, upon learning of any such Proceeding, shall promptly notify the Combined Corporation thereof in writing, but the failure to so notify shall not relieve the Combined Corporation of any liability it may have to such Indemnified Party except to the extent such failure materially prejudices the indemnifying party. In the event of any Proceeding: (i) the Combined Corporation shall have the right to assume the defense thereof (it being understood that by electing to assume the defense thereof, the Combined Corporation shall not be deemed to have waived any right to object to the Indemnified Party’s entitlement to indemnification hereunder with respect thereto or assumed any liability with respect thereto), except that if the Combined Corporation elects not to assume such defense or legal counsel or the Indemnified Party advises that there are issues which raise conflicts of interest between the Combined Corporation and the Indemnified Party, the Indemnified Party may retain legal counsel satisfactory to them, and the Combined Corporation shall pay all reasonable and documented fees, costs and expenses of such legal counsel for the Indemnified Party promptly as statements therefor are received; provided, however, that the Combined Corporation shall be obligated pursuant to this Section 5.11(c) to pay for only one firm of legal counsel for all Indemnified Parties in any jurisdiction unless the use of one legal counsel for such Indemnified Parties would present such legal counsel with a conflict of interest (provided, that the fewest number of legal counsels necessary to avoid conflicts of interest shall be used); (ii) the Indemnified Parties shall cooperate in the defense of any such matter if the Combined Corporation elects to assume such defense, and the Combined Corporation shall cooperate in the defense of any such matter if the

Combined Corporation elects not to assume such defense; (iii) the Indemnified Parties shall not be liable for any settlement effected without their prior written consent if the Combined Corporation elects to assume such defense and the Combined Corporation shall not be liable for any settlement effected without their prior written consent the Combined Corporation elects not to assume such defense; (iv) the Combined Corporation shall not have any obligation hereunder to any Indemnified Party if and when a court of competent jurisdiction shall ultimately determine, and such determination shall have become final, that the indemnified action of such Indemnified Party in the manner contemplated hereby is prohibited by applicable Law; and (v) all rights to indemnification in respect of any such Proceedings shall continue until final disposition of all such Proceedings.

(d) During the Tail Period, all rights to indemnification and exculpation from liabilities for acts or omissions occurring at or prior to the Parent Merger Effective Time and rights to advancement of expenses relating thereto now existing in favor of any Indemnified Party as provided in the Organizational Documents (subject to the amendment and restatement of the certificate of incorporation of McGraw-Hill as contemplated by Section 1.1(c)) of Cengage and its Subsidiaries or any indemnification agreement between such Indemnified Party and Cengage or any of its Subsidiaries, in each case, as in effect on the date of this Agreement, shall survive the Transactions unchanged and shall not be amended, restated, repealed or otherwise modified in any manner that would adversely affect any right thereunder of any such Indemnified Party.

(e) If the Combined Corporation or any of their respective successors or assigns (i) shall consolidate with or merge into any other Person and shall not be the continuing or surviving Person of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of the Combined Corporation shall assume all of the obligations set forth in this Section 5.11.

(f) The rights of the Indemnified Parties under this Section 5.11 shall survive consummation of the Mergers and are in addition to any rights such Indemnified Parties may have under the Organizational Documents of Cengage or any of its Subsidiaries, or under any indemnification agreements or other applicable Contracts of Cengage or Laws.

(g) This Section 5.11 is intended to be for the benefit of, and from and after the Parent Merger Effective Time shall be enforceable by, each of the Indemnified Parties, who shall be third-party beneficiaries of this Section 5.11.

5.12. Takeover Statutes. If any Takeover Statute is or may become applicable to the Transactions, each of Cengage and McGraw-Hill and the McGraw-Hill Board and Cengage Board, respectively, shall grant such approvals and take, or cause to be taken, such actions as are necessary and legally permissible so that the Transactions may be consummated as promptly as practicable on the terms contemplated by this Agreement and otherwise act to eliminate or minimize the effects of such statute or regulation on the Transactions.

5.13. Termination of Affiliate Agreements. Prior to the Closing, Cengage and McGraw-Hill shall take (and shall cause their respective Subsidiaries to take) all such actions as

may be necessary or appropriate such that the Affiliate Agreements other than those set forth in Section 5.13 of such Party's Disclosure Letter, as applicable, are terminated or novated at the Closing, in each case without any liability to Cengage or McGraw-Hill (other than those amounts as are necessary to be paid to release and discharge such Party from any obligations owed under such Affiliate Agreements) from and after the Parent Merger Effective Time. At or prior to the Parent Merger Effective Time, Cengage and McGraw-Hill shall deliver to the other documentation reasonably satisfactory to such other Party that the actions required by the preceding sentence have been taken and shall be effective as of the Closing.

5.14. Requisite Stockholder Approval; Stockholder Notice.

(a) Substantially concurrent with, and conditioned upon, the execution of this Agreement, Cengage shall deliver to McGraw-Hill an irrevocable written consent, in substantially the form attached hereto as **Exhibit B** (the "**Cengage Irrevocable Written Consent**"), which shall be signed by a sufficient number of holders of shares of Cengage Common Stock that reflects Cengage's receipt of the Requisite Cengage Stockholder Approval.

(b) Cengage shall prepare and mail, within thirty (30) calendar days of the date of this Agreement, a notice of action by written consent as required by Section 228(e) of the DGCL and their Organizational Documents to the holders of outstanding shares of Cengage Common Stock (the "**Stockholder Notice**"), which Stockholder Notice shall contain an appraisal notice pursuant to Section 262 of the DGCL in connection with the Parent Merger containing the information required by applicable Law. McGraw-Hill shall provide to Cengage any information of McGraw-Hill reasonably necessary to prepare the Stockholder Notice. Cengage shall provide to McGraw-Hill a reasonable opportunity to comment on the Stockholder Notice and Cengage shall consider any such comments in good faith.

5.15. Pre-Closing Corporate Governance Matters.

(a) At or prior to the Closing, the Parties shall have prepared definitive versions of the amended and restated Organizational Documents of McGraw-Hill on the terms set forth on **Exhibit A** in all material respects and with such other terms as shall be reasonably satisfactory to McGraw-Hill and Cengage.

(b) McGraw-Hill and the McGraw-Hill Board shall take all necessary action to cause the board of directors of the Combined Corporation to be constituted in the manner set forth in the Certificate Amendment, and shall solicit and obtain the Requisite McGraw-Hill Stockholder Approval.

(c) The initial officers of the Combined Corporation, each to hold the office in accordance with the Organizational Documents of the Combined Corporation, shall be those appointed by the initial directors of the Combined Corporation in accordance with the arrangements contemplated by the Certificate Amendment.

ARTICLE VI

CONDITIONS

6.1. Conditions to Each Party's Obligation to Effect the Mergers. The respective obligation of each Party to effect the Mergers is subject to the satisfaction at the Closing or waiver, in whole or in part (to the extent permitted by applicable Law), on or prior to the Closing Date of each of the following conditions:

(a) Cengage Stockholder Approval. The Requisite Cengage Stockholder Approval shall have been obtained in accordance with the Organizational Documents of Cengage and the DGCL and not withdrawn.

(b) Government Approvals. (i) The waiting period (and any extension thereof) applicable to the consummation of the Transactions under the HSR Act shall have expired or been earlier terminated, and (ii) the Required FI Approval (if applicable) shall have been obtained, and (iii) the Other Antitrust Approvals shall have been obtained (all such authorizations, consents, orders, approvals, Filings and declarations and the lapse of all such waiting periods required by clauses (i), (ii) and (iii) collectively being the "**Requisite Regulatory Approvals**"), in the case of each of (i), (ii) and (iii) without the imposition of a Burdensome Effect.

(c) Laws or Orders. (i) No Governmental Entity of competent jurisdiction shall have enacted, issued, promulgated, enforced or entered any Law or Order (whether temporary, preliminary or permanent) that is in effect and restrains, enjoins, makes illegal or otherwise prohibits the consummation of the Transactions or imposes a Burdensome Effect (such Law or Order, a "**Relevant Legal Restraint**") and (ii) no Governmental Entity of competent jurisdiction shall have instituted any Proceeding (which remains pending at what would otherwise be the Closing Date) seeking to temporarily or permanently enjoin, restrain or otherwise prohibit consummation of the Parent Merger or impose a Relevant Legal Restraint (it being understood and agreed that, with respect to any such Law or Order that is, or is under, an Antitrust Law, only a Governmental Entity of competent jurisdiction in (i) jurisdictions in which there are Requisite Regulatory Approvals and (ii) Canada, shall constitute a Governmental Entity of competent jurisdiction for purposes of this Section 6.1(c)).

(d) Financing Amendments. The Financing Amendments shall have been consummated in a manner reasonably satisfactory to each of Cengage and McGraw-Hill.

6.2. Conditions to Obligations of McGraw-Hill. The obligation of McGraw-Hill to effect the Mergers is also subject to the satisfaction at the Closing or waiver, in whole or in part (to the extent permitted by applicable Law), by McGraw-Hill on or prior to the Closing Date of the following conditions:

(a) Representations and Warranties. (i) Each of the representations and warranties of Cengage, Cengage Intermediate Holdco and Cengage Issuer set forth in Section 3.1 [Organization, Good Standing and Qualification], Section 3.3 [Corporate Authority; Approval], Section 3.12 [Takeover Statutes], Section 4.5 [Cengage Capital Structure] and Section 4.7

[*Cengage Brokers and Finders*] shall be true and correct in all material respects (without giving effect to any qualification by materiality or Material Adverse Effect contained therein) as of the date of this Agreement and as of the Closing Date with the same effect as though made as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all material respects as of such particular date or period of time); (ii) the representations and warranties of Cengage, Cengage Intermediate Holdco and Cengage Issuer set forth in Section 3.7(b) [Absence of Certain Changes or Events] shall be true and correct in all respects as of the date of this Agreement and as of the Closing Date with the same effect as though made as of the Closing Date; and (iii) each other representation and warranty of Cengage, Cengage Intermediate Holdco and Cengage Issuer set forth in Article III and Article IV shall be true and correct in all respects (without giving effect to any qualification by materiality or Material Adverse Effect contained therein) as of the date of this Agreement and as of the Closing Date with the same effect as though made as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all respects as of such particular date or period of time), except, in the case of this clause (iii), for any failure of any such representation and warranty to be so true and correct in all respects that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect with respect to Cengage.

(b) Performance of Obligations of Cengage. Cengage, Cengage Intermediate Holdco and Cengage Issuer shall have performed or complied in all material respects with the obligations required to be performed or complied with by them under this Agreement at or prior to the Closing.

(c) Certificate. McGraw-Hill shall have received a certificate of an executive officer of Cengage certifying that the conditions set forth in Section 6.2(a) and Section 6.2(b) have been satisfied.

(d) Tax Opinion. McGraw-Hill shall have received a written opinion from McGraw-Hill's Counsel, in form and substance reasonably satisfactory to McGraw-Hill, dated as of the Closing Date, to the effect that, on the basis of the facts, representations and assumptions set forth or referred to in such opinion, the Parent Merger will qualify as a "reorganization" within the meaning of Section 368(a) of the Code. In rendering the opinion described in this Section 6.2(d), McGraw-Hill's Counsel shall have received and shall be entitled to rely on the McGraw-Hill Tax Representation Letter and the Cengage Tax Representation Letter and such other information as McGraw-Hill's Counsel reasonably deems relevant.

(e) Required Consent. Cengage shall have received the consent set forth in Section 6.2(e) of Cengage's Disclosure Letter, which consent shall be in a form reasonably satisfactory to McGraw-Hill.

6.3. Conditions to Obligation of Cengage. The obligation of Cengage to effect the Mergers is also subject to the satisfaction at the Closing or waiver, in whole or in part (to the extent permitted by applicable Law), by Cengage on or prior to the Closing Date of the following conditions:

(a) Representations and Warranties. (i) Each of the representations and warranties of McGraw-Hill and McGraw-Hill Issuer set forth in Section 3.1 [Organization, Good Standing and Qualification], Section 3.3 [Corporate Authority; Approval], Section 3.12 [Takeover Statutes], Section 4.1 [McGraw-Hill Capital Structure] and Section 4.3 [McGraw-Hill Brokers and Finders] shall be true and correct in all material respects (without giving effect to any qualification by materiality or Material Adverse Effect contained therein) as of the date of this Agreement and as of the Closing Date with the same effect as though made as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all material respects as of such particular date or period of time); (ii) the representations and warranties of McGraw-Hill and McGraw-Hill Issuer set forth in Section 3.7(b) [Absence of Certain Changes or Events] shall be true and correct in all respects as of the date of this Agreement and as of the Closing Date with the same effect as though made as of the Closing Date; and (iii) each other representation and warranty of McGraw-Hill and McGraw-Hill Issuer set forth in Article III and Article IV shall be true and correct in all respects (without giving effect to any qualification by materiality or Material Adverse Effect contained therein) as of the date of this Agreement and as of the Closing Date (except to the extent that any such representation and warranty expressly speaks as of a particular date or period of time, in which case such representation and warranty shall be so true and correct in all respects as of such particular date or period of time), except, in the case of this clause (iii), for any failure of any such representation and warranty to be so true and correct in all respects (without giving effect to any qualification by materiality or Material Adverse Effect contained therein) that would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect with respect to McGraw-Hill.

(b) Performance of Obligations of McGraw-Hill. McGraw-Hill and McGraw-Hill Issuer shall have performed and complied in all material respects with the obligations required to be performed or complied with by them under this Agreement at or prior to the Closing.

(c) Certificate. Cengage shall have received a certificate of an executive officer of McGraw-Hill certifying that the conditions set forth in Section 6.3(a) and Section 6.3(b) have been satisfied.

(d) Combined Corporation Governance Matters. (i) The McGraw-Hill Board shall be composed, simultaneously with the Closing, as contemplated by Section 5.15 and (ii) the definitive version of the amended and restated certificate of incorporation contemplated by Section 5.15 shall have been filed with the Certificate of Merger.

(e) Tax Opinion. Cengage shall have received a written opinion from Cengage's Counsel, in form and substance reasonably satisfactory to Cengage, dated as of the Closing Date, to the effect that, on the basis of the facts, representations and assumptions set forth or referred to in such opinion, the Parent Merger will qualify as a "reorganization" within the meaning of Section 368(a) of the Code. In rendering the opinion described in this Section 6.3(e), Cengage's Counsel shall have received and shall be entitled to rely on the Cengage Tax Representation Letter and the McGraw-Hill Tax Representation Letter and such other information as Cengage's Counsel reasonably deems relevant.

ARTICLE VII

TERMINATION

7.1. Termination by Mutual Written Consent. This Agreement may be terminated at any time prior to the Parent Merger Effective Time by mutual written consent of Cengage and McGraw-Hill.

7.2. Termination by Either Cengage or McGraw-Hill. This Agreement may be terminated at any time prior to the Parent Merger Effective Time by McGraw-Hill or Cengage, if:

(a) the Parent Merger shall not have been consummated by 5:00 p.m. Eastern Time on February 1, 2020 (the “**Original Outside Date**”); provided, that if any of the conditions to the Closing set forth in Section 6.1(b) or Section 6.1(c) (solely as it relates to any Antitrust Laws) has not been satisfied or waived (to the extent legally permissible) on or prior to the Original Outside Date or the First Extended Outside Date, as applicable, but all other conditions to Closing set forth in Article VI have been satisfied (other than those conditions that by their nature are to be satisfied at the Closing (so long as such conditions are reasonably capable of being satisfied if the Closing were to occur on the Outside Date)) or waived (to the extent legally permissible), (i) the Outside Date may be extended by Cengage or McGraw-Hill (by delivery of written notice to the other Party no earlier than thirty (30) calendar days prior to the Outside Date), without further action of the other Party to (and including) 5:00 p.m. Eastern Time on May 1, 2020 (the Original Outside Date, as so extended, the “**First Extended Outside Date**”), and (ii) thereafter, the First Extended Outside Date may be further extended by mutual agreement of Cengage and McGraw-Hill to (and including) 5:00 p.m. Eastern Time on August 1, 2020 (the Outside Date, as so further extended, the “**Second Extended Outside Date**” and, each of the First Extended Outside Date and the Second Extended Outside Date, the “**Extended Outside Date**,” and the Original Outside Date, or, if extended, the Extended Outside Date then in effect, the “**Outside Date**”), it being agreed that there shall be no more than two such extensions pursuant to this Section 7.2(a) in the aggregate for Cengage and McGraw-Hill and that in no event shall the Outside Date occur after 5:00 p.m. Eastern Time on August 1, 2020; provided, further, that the right to terminate this Agreement pursuant to this Section 7.2(a) shall not be available to any Party whose action or failure to act has been a principal cause of or directly resulted in the failure of the Parent Merger to occur on or before such date and such action or failure to act constitutes a breach of this Agreement; or

(b) a Relevant Legal Restraint permanently restraining, enjoining or otherwise prohibiting consummation of the Transactions shall become final and non-appealable.

7.3. Termination by McGraw-Hill. This Agreement may be terminated at any time prior to the Parent Merger Effective Time by McGraw-Hill if at any time prior to the Parent Merger Effective Time, there has been a breach by Cengage, Cengage Intermediate Holdco or Cengage Issuer of any of their representations, warranties, covenants or agreements set forth in this Agreement such that the conditions in Section 6.2(a) or Section 6.2(b) would not be satisfied (and such breach is not curable prior to the Outside Date, or if curable prior to the Outside Date, has not been cured within the earlier of (a) thirty (30) calendar days after the giving of notice

thereof by McGraw-Hill to Cengage or (b) three (3) Business Days prior to the Outside Date); provided, that McGraw-Hill shall not have the right to terminate this Agreement pursuant to this Section 7.3 if McGraw-Hill is then in material breach of this Agreement or if any representation or warranty of McGraw-Hill shall have become untrue, in either case, so as to result in the failure of any of the conditions set forth in Section 6.3(a) or Section 6.3(b).

7.4. Termination by Cengage. This Agreement may be terminated at any time prior to the Parent Merger Effective Time by action of Cengage if at any time prior to the Parent Merger Effective Time, there has been a breach by McGraw-Hill or McGraw-Hill Issuer of any of their representations, warranties, covenants or agreements set forth in this Agreement such that the conditions in Section 6.3(a) or Section 6.3(b) would not be satisfied (and such breach is not curable prior to the Outside Date, or if curable prior to the Outside Date, has not been cured within the earlier of (a) thirty (30) calendar days after the giving of notice thereof by Cengage to McGraw-Hill or (b) three (3) Business Days prior to the Outside Date); provided, that Cengage shall not have the right to terminate this Agreement pursuant to this Section 7.4 if Cengage is then in material breach of this Agreement or if any representation or warranty of Cengage shall have become untrue, in either case, so as to result in the failure of any of the conditions set forth in Section 6.2(a) or Section 6.2(b).

ARTICLE VIII

MISCELLANEOUS AND GENERAL

8.1. Survival. This Article VIII and the agreements of Cengage and McGraw-Hill contained in Article II [*Conversion of Securities*], Section 1.1(c), [*Closing Transactions*], Section 5.5 [*Financing and Indebtedness*], Section 5.8 [*Employee Benefits*], Section 5.9 [*Certain Tax Matters*], Section 5.10 [*Expenses*], and Section 5.11 [*Indemnification; Directors' and Officers' Insurance*] shall survive the consummation of the Mergers. All other representations, warranties, covenants and agreements in this Agreement or in any instrument or other document delivered pursuant to this Agreement shall not survive the consummation of the Mergers.

8.2. Amendment; Waiver. Subject to the provisions of applicable Laws and the provisions of Section 5.11 [*Indemnification; Directors' and Officers' Insurance*], at any time prior to the Parent Merger Effective Time, this Agreement may be amended, modified or waived if, and only if, such amendment, modification or waiver is in writing and signed, in the case of an amendment, modification or waiver, by Cengage and McGraw-Hill, or in the case of a waiver, by the Party against whom the waiver is to be effective. The conditions to each of the respective parties' obligations to consummate the Transactions are for the sole benefit of such Party and may be waived by such Party in whole or in part to the extent permitted by applicable Law; provided, however, that any such waiver shall only be effective if made in writing and executed by the Party against whom the waiver is to be effective. No failure or delay by any Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by Law.

8.3. Counterparts. This Agreement may be executed in any number of counterparts, each such counterpart being deemed to be an original instrument, and all such counterparts shall together constitute the same agreement. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

8.4. Governing Law and Venue; Submission to Jurisdiction; Selection of Forum; Waiver of Trial by Jury.

(a) THIS AGREEMENT SHALL BE DEEMED TO BE MADE IN AND IN ALL RESPECTS SHALL BE INTERPRETED, CONSTRUED AND GOVERNED BY AND IN ACCORDANCE WITH THE LAW OF THE STATE OF DELAWARE WITHOUT REGARD TO THE CONFLICT OF LAW PRINCIPLES THEREOF (OR ANY OTHER JURISDICTION) TO THE EXTENT THAT SUCH PRINCIPLES WOULD DIRECT A MATTER TO ANOTHER JURISDICTION.

(b) Each of the Parties agrees that it shall bring any action or Proceeding in respect of any claim arising under or relating to this Agreement or the Transactions exclusively in the Court of Chancery for the State of Delaware in and for New Castle County, Delaware (or, in the event that such court does not have subject matter jurisdiction over such action or Proceeding, the United States District Court for the District of Delaware) (the "**Chosen Court**") and, solely in connection with such claims, (i) irrevocably submits to the exclusive jurisdiction of the Chosen Court, (ii) waives any objection to the laying of venue in any such action or Proceeding in the Chosen Court, (iii) waives any objection that the Chosen Court is an inconvenient forum or does not have jurisdiction over any Party and (iv) agrees that mailing of process or other papers in connection with any such action or Proceeding in the manner provided in Section 8.6 or in such other manner as may be permitted by Law shall be valid and sufficient service thereof.

(c) EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY BE IN CONNECTION WITH, ARISE OUT OF OR OTHERWISE RELATE TO THIS AGREEMENT, ANY INSTRUMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR THE TRANSACTIONS, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH PARTY HERETO IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY ACTION OR PROCEEDING DIRECTLY OR INDIRECTLY IN CONNECTION WITH, ARISING OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT, ANY INSTRUMENT OR OTHER DOCUMENT DELIVERED PURSUANT TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY HEREBY ACKNOWLEDGES AND CERTIFIES (I) THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF THE OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF ANY ACTION OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER, (II) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (III) IT MAKES THIS WAIVER VOLUNTARILY AND (IV) IT HAS BEEN INDUCED TO

ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS, ACKNOWLEDGMENTS AND CERTIFICATIONS CONTAINED IN THIS SECTION 8.4(c).

8.5. Specific Performance. Each of the Parties acknowledges and agrees that the rights of each Party to consummate the Transactions are special, unique and of extraordinary character and that if for any reason any of the provisions of this Agreement are not performed in accordance with their specific terms or are otherwise breached, immediate and irreparable harm or damage would be caused for which money damages would not be an adequate remedy. Accordingly, each Party agrees that, in addition to any other available remedies a Party may have in equity or at Law, each Party shall be entitled to enforce specifically the terms and provisions of this Agreement and to obtain an injunction restraining any breach or violation or threatened breach or violation of the provisions of this Agreement in the Court of Chancery of the State of Delaware without necessity of posting a bond or other form of security. In the event that any action or Proceeding should be brought in equity to enforce the provisions of this Agreement, no Party shall allege, and each Party hereby waives the defense, that there is an adequate remedy at Law.

8.6. Notices. All notices, requests, instructions or other communications or documents to be given or made hereunder by any Party to the other Parties shall be in writing and shall be deemed to have been duly given when (a) served by personal delivery or by an internationally recognized overnight courier service upon the Party or Parties for whom it is intended, (b) delivered by registered or certified mail, return receipt requested or (c) sent by email, provided that the transmission of the email is promptly confirmed by telephone or response email:

If to Cengage, Cengage Intermediate Holdco or Cengage Issuer:

Cengage Learning, Inc.
20 Channel Center Street
Boston, MA 02210
Attention: Laura Stevens, General Counsel and Secretary
Telephone: (617) 757-8370
E-mail: laura.stevens@cengage.com

With a copy (which shall not constitute notice) to:

Wachtell, Lipton, Rosen & Katz
51 West 52nd Street
New York, NY 10019
Attention: Steven A. Cohen
Alison Z. Preiss
Telephone: (212) 403-1000
E-mail: sacohen@wlrk.com
azpreiss@wlrk.com

If to McGraw-Hill or McGraw-Hill Issuer:

McGraw-Hill Education, Inc.
2 Penn Plaza, 20th Floor
New York, NY 10121
Attention: David B. Stafford, General Counsel and Secretary
Telephone: (646) 766-2626
E-mail: david.stafford@mheducation.com

With a copy (which shall not constitute notice) to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
Attention: Brian P. Finnegan
Telephone: (212) 373-3079
E-mail: bfinnegan@paulweiss.com

or to such other Person or addressees as has been designated in writing by the party to receive such notice provided above.

8.7. Definitions.

(a) For purposes of this Agreement, the following terms (including, with correlative meaning, their singular and plural variations) shall have the following meanings:

“**Acquisition Proposal**” means any proposal, offer or indication of interest relating to a possible transfer, disposition, sale or similar transaction to any Person (other than the Parties) of all or any material portion of the assets of, more than a *de minimis* portion of any equity interests of, or any acquisition or merger of such Party and its Subsidiaries (other than assets such Party sold in the ordinary course of business or as permitted by Section 5.1).

“**Affiliate**” means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person. Notwithstanding the foregoing, for purposes of this Agreement, (i) none of the stockholders of Cengage or McGraw-Hill or their respective Affiliates, solely by virtue of being stockholders of Cengage or McGraw-Hill, shall be considered Affiliates of any other stockholder of Cengage or McGraw-Hill, as applicable, or such other stockholder’s Affiliates or Affiliates of Cengage or McGraw-Hill, and (ii) no operating portfolio company (other than McGraw-Hill and its Subsidiaries) of any investment fund affiliates of Apollo Global Management, LLC shall be deemed Affiliates of McGraw-Hill or its Subsidiaries, nor shall McGraw-Hill or its Subsidiaries be deemed Affiliates of any operating portfolio company (other than McGraw-Hill and its Subsidiaries) of any investment fund affiliate of Apollo Global Management, LLC.

“**Antitrust Law**” means the Sherman Antitrust Act of 1890, as amended, the Clayton Act of 1914, as amended, the HSR Act, the Federal Trade Commission Act of 1914, as amended, and all other United States or non-United States, including state, national, or

supranational, antitrust, competition or other Laws that are designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

“Benefit Plan” means any benefit or compensation plan, program, policy, practice, agreement, contract, arrangement or other obligation, whether or not in writing and whether or not funded, in each case, that is sponsored or maintained by, or required to be contributed to, or with respect to which any potential liability is borne by Cengage or McGraw-Hill or any of their respective Subsidiaries. Benefit Plans include, but are not limited to, “employee benefit plans” within the meaning of ERISA, employment, non-compete or non-solicit, consulting, retirement, severance, termination or change in control agreements, deferred compensation, equity-based, incentive, bonus, supplemental retirement, profit sharing, insurance, medical, health, welfare, fringe or other benefits or remuneration of any kind.

“Business Day” means any day ending at 11:59 p.m. (Eastern Time) other than a Saturday or Sunday or a day on which banks in the City of New York, New York are required or authorized by Law to be closed.

“Cengage ABL Agreement” means the Revolving Credit Agreement, dated as of March 31, 2014, among Cengage Intermediate Holdco, Cengage Issuer, Cengage, the lenders and other parties from time to time party thereto, and Citibank, N.A., as administrative agent, and the loan documents relating thereto, in each case as amended, amended and restated, supplemented or otherwise modified from time to time.

“Cengage Benefit Plan” means any Benefit Plan that is sponsored or maintained by, or required to be contributed to, or with respect to which any potential liability is borne by Cengage or any of its Subsidiaries.

“Cengage Equity Awards” means Cengage Options and Cengage RSU Awards.

“Cengage Non-Rollover RSU Award” means each Cengage RSU Award that either (i) is vested as of immediately prior to the Parent Merger Effective Time but for which shares of Cengage Common Stock have not yet been issued or (ii) becomes vested upon the occurrence of the Parent Merger Effective Time in accordance with its terms (in each case, as determined by the Cengage Board in its sole discretion).

“Cengage Option” means each option to purchase shares of Cengage Common Stock granted under a Cengage Stock Plan.

“Cengage Rollover Option” means each Cengage Option that is not a Cengage Specified Option.

“Cengage Rollover RSU Award” means each Cengage RSU Award that is not a Cengage Non-Rollover RSU Award.

“Cengage RSU Award” means each restricted stock unit relating to shares of Cengage Common Stock granted under a Cengage Stock Plan.

“**Cengage Specified Option**” means each vested Cengage Option with a per share exercise price that is equal to or less than \$18.00.

“**Cengage Stock Plans**” means (i) the Cengage 2014 Equity Incentive Plan, as amended June 2014, (ii) the Cengage 2018 Equity Incentive Plan and (iii) the Cengage 2014 Equity Purchase Plan.

“**Cengage Term Loan Agreement**” means the Term Loan Credit Agreement, dated as of March 31, 2014, among Cengage Intermediate Holdco, Cengage Issuer, Cengage, the lenders and other parties from time to time party thereto, and Credit Suisse AG, Cayman Islands Branch, as administrative agent, and the loan documents relating thereto, in each case as amended, amended and restated, supplemented or otherwise modified from time to time.

“**Contract**” means any oral or written contract, agreement, lease, license, note, mortgage, indenture, arrangement or other obligation (other than a Benefit Plan).

“**Controlled Group Liability**” means any and all liabilities (i) under Title IV of ERISA, (ii) under Section 302 of ERISA, (iii) under Sections 412 and 4971 of the Code, (iv) as a result of a failure to comply with the continuation coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code and (v) any similar liability under applicable Law in any jurisdiction outside of the United States.

“**Effect**” means any effect, development, change or circumstance.

“**Employee**” means any current or former employee, officer, director or independent contractor (who is a natural person) of Cengage or McGraw-Hill or any of their respective Subsidiaries, as applicable.

“**Environmental Law**” means any Law relating to: (i) the protection, investigation or restoration of the environment or natural resources, (ii) the handling, use, disposal, release or threatened release of, or exposure to any harmful or deleterious substances or (iii) indoor air quality, wetlands, pollution, contamination or any injury or threat of injury to persons or property arising from any harmful or deleterious substances.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended.

“**ERISA Affiliate**” means all employers (whether or not incorporated) that would be treated together with Cengage or McGraw-Hill or any of their respective Subsidiaries, as applicable, as a “single employer” within the meaning of Section 414 of the Code.

“**ERISA Plans**” means each Benefit Plan that is an “employee benefit plan” within the meaning of Section 3(3) of ERISA, excluding Multiemployer Plans.

“**Exchange Act**” means the Securities Exchange Act of 1934, as amended.

“**Financing Amendments**” means certain amendments to and/or refinancings of the McGraw-Hill Credit Agreement and the Cengage Term Loan Agreement to, among other

things, (i) extend the maturity of the Initial Term B Loans, the Term B-1 Loans and the Initial Revolving Loans outstanding under the McGraw-Hill Credit Agreement (each as defined therein) and make such other amendment to the terms thereof as shall be mutually agreed and (ii) extend the maturity date of the Term Loans outstanding under the Cengage Term Loan Agreement (as defined therein) and make such other amendments to the terms thereof as shall be mutually agreed, which amendment and extension may take the form of an amendment and restatement of each of the McGraw-Hill Credit Agreement and the Cengage Term Loan Agreement into a consolidated credit agreement, and which amendments to and/or refinancings shall be subject to the following minimum consents levels: participation by (x) lenders holding at least ninety percent (90%) of the principal amount of the term loans under the McGraw-Hill Credit Agreement, (y) lenders holdings at least ninety percent (90%) of the principal amount of the term loans under the Cengage Term Loan Agreement and (z) lenders holdings at least ninety percent (90%) of the amount of the revolving facility commitments under the McGraw-Hill Credit Agreement, in each case outstanding as of the date of such amendments.

“**GAAP**” means accounting principles generally accepted in the United States as in effect from time to time

“**Governmental Entity**” means any United States, non-United States, supranational or transnational governmental (including public international organizations), quasi-governmental, regulatory or self-regulatory authority, agency, commission, body, department or instrumentality or any court, tribunal or arbitrator or other entity or subdivision thereof or other legislative, executive or judicial entity or subdivision thereof, in each case, of competent jurisdiction.

“**Hazardous Materials**” means (i) petroleum, petroleum products and by-products, asbestos and asbestos-containing materials, polychlorinated biphenyls, mold, and radioactive substances and (ii) any other chemical, material, substance, waste, pollutant or contaminant that is prohibited or regulated by or pursuant to, any Environmental Law.

“**Higher Ed Titles**” means titles that are sold primarily in the higher education market.

“**HSR Act**” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

“**Indebtedness**” means, with respect to any Person, without duplication, all obligations or undertakings by such Person (i) for borrowed money (including deposits or advances of any kind to such Person); (ii) evidenced by bonds, debentures, notes or similar instruments; (iii) for capitalized leases or to pay the deferred and unpaid purchase price of property or equipment; (iv) pursuant to securitization or factoring programs or arrangements; (v) pursuant to guarantees and arrangements having the economic effect of a guarantee of any Indebtedness of any other Person (other than between or among any of McGraw-Hill and its wholly owned Subsidiaries or between or among any of Cengage and its wholly owned Subsidiaries); (vi) to maintain or cause to be maintained the financing, financial position or financial covenants of others; (vii) net cash payment obligations of such Person under swaps, options, derivatives and other hedging Contracts or arrangements that will be payable upon

termination thereof (assuming termination on the date of determination); (viii) all obligations of such Person in respect of deferred purchase price with respect to the acquisition by such Person of any business, division or product line or portion thereof (whether by merger, sale of stock, sale of assets or otherwise) (including any outstanding “earn-outs” and “seller notes” payable with respect to the acquisition of any business, division or product line); or (ix) letters of credit, bank guarantees, and other similar Contracts or arrangements entered into by or on behalf of such Person.

“**Intellectual Property**” means all intellectual and industrial property rights anywhere in the world (whether foreign, state or domestic, registered or unregistered), including rights arising under or with respect to: (i) patents and utility models of any kind, patent applications, including provisional applications, statutory invention registrations, inventions, discoveries and invention disclosures (whether or not patented), and all related continuations, continuations-in-part, divisionals, reissues, re-examinations, substitutions, and extensions thereof, (ii) trademarks, service marks, trade dress, logos, Internet domain names, uniform resource locators, social and mobile media identifiers and other similar identifiers of origin, trade names and corporate names, whether registered or unregistered, and the goodwill associated therewith, together with any registrations and applications for registration thereof, (iii) copyrights, mask works, rights under copyrights and corresponding rights in, industrial designs, and works of authorship (including computer software, applications, source code and object code, and databases and other compilations of information), whether registered or unregistered, and any registrations, renewals and applications for registration thereof, (iv) trade secrets and other rights in know-how and confidential or proprietary information, including in any technical data, specifications, designs, techniques, processes, methods, inventions, discoveries, software, algorithms and databases and the information contained therein, in each case, to the extent that it qualifies as a trade secret under applicable Law and (v) all other intellectual and industrial property rights recognized by applicable Law.

“**IT Assets**” means computers, software, firmware, middleware, servers, workstations, routers, hubs, switches, networks, data communications lines and all other information technology equipment and all associated documentation.

“**Knowledge**” (i) with respect to Cengage or any of its Subsidiaries means actual knowledge of the Persons listed on Section 8.7(a)(i) of the Cengage Disclosure Letter and (ii) with respect to McGraw-Hill or any of its Subsidiaries means actual knowledge of the Persons listed on Section 8.7(a)(i) of the McGraw-Hill Disclosure Letter, in each case after reasonably inquiry of their respective employees who would reasonably be expected to have actual knowledge over the matter in question.

“**Laws**” means any federal, state, local, foreign, international or transnational law, statute, ordinance, common law, rule, regulation, standard, judgment, determination, Order, writ, injunction, decree, arbitration award, treaty, agency requirement, authorization, license or permit of any Governmental Entity.

“**Leased Real Property**” with respect to Cengage or McGraw-Hill, means all leasehold or subleasehold estates and other rights to use and occupy any land, buildings,

structures, improvements, fixtures or other interest in Real Property held by Cengage and any of its Subsidiaries or McGraw-Hill and any of its Subsidiaries, as applicable.

“**Licenses**” means all permits, licenses, certifications, approvals, registrations, consents, authorizations, franchises, variances, exemptions and Order issued or granted by a Governmental Entity.

“**Material Adverse Effect**” with respect to Cengage or McGraw-Hill, means any Effect that is materially adverse to the business, condition (financial or otherwise) or results of operations of such Party and its Subsidiaries, taken as a whole; provided, that none of the following, alone or in combination, shall be deemed to constitute a Material Adverse Effect, or be taken into account in determining whether a Material Adverse Effect has occurred or would reasonably be expected to occur:

(i) Effects generally affecting (A) the economy, credit, capital, securities or financial markets in the United States or elsewhere in the world, including changes to interest rates and exchange rates, or (B) political, regulatory or business conditions in any jurisdiction in which such Party or any of its Subsidiaries has material operations or where any of such Party’s or any of its Subsidiaries’ products or services are sold;

(ii) Effects generally affecting the industry, markets or geographical areas in which such Party and its Subsidiaries operate;

(iii) any loss of, or adverse Effect in, the relationship of such Party or any of its Subsidiaries, contractual or otherwise, with customers, Employees, unions, suppliers, distributors, financing sources, partners or similar relationship to the extent caused by the entry into, announcement or consummation of the Transactions (provided that the exception in this clause (iii) shall not apply to the representations and warranties contained in Section 3.4(b));

(iv) the performance by any Party of its obligations to the extent expressly required under this Agreement or the consummation of the Transactions (including any specific action permitted by or failing to take any action prohibited by, this Agreement);

(v) any action taken (or not taken) by such Party or any of its Subsidiaries at the written request of the other Party, which action taken (or not taken) is not required under the terms of this Agreement;

(vi) changes or modifications, and prospective changes or modifications, in GAAP or in any Law of general applicability, including the repeal thereof, or in the interpretation or enforcement thereof, after the date of this Agreement;

(vii) any failure, in and of itself, by such Party to meet any internal or public projections or forecasts or estimates of revenues or earnings for any period; provided, that the exception in this clause (vii) shall not prevent or otherwise affect a determination that any Effect underlying such failure has resulted in, or contributed to, or would reasonably be expected to result in, or contribute to, a Material Adverse Effect (if not otherwise falling within any of the exceptions in clauses (i) through (vi) or (viii) and (ix)); or

(viii) any acts of war (whether or not declared), civil disobedience, hostilities, sabotage, terrorism, geopolitical conditions, military actions or the escalation or worsening of any of the foregoing, any hurricane, flood, tornado, earthquake or other weather or natural disaster, or any outbreak of illness or other public health event or any other force majeure event, whether or not caused by any Person; or

(ix) in the case of Cengage, (A) a decline in the market price, or change in trading volume, in and of itself, of the shares of common stock of Cengage on the over-the-counter, or OTC, market, or (B) any ratings downgrade or change in ratings outlook for such Party or any of its Subsidiaries; provided, that the exceptions in this clause (ix) shall not prevent or otherwise affect a determination that any Effect underlying such decline or change has resulted in, or contributed to, or would reasonably be expected to result in, or contribute to, a Material Adverse Effect (if not otherwise falling within any of the exceptions in clauses (i) through (viii));

provided, further, that, with respect to clauses (i), (ii), (vi) and (viii), such Effect shall be taken into account in determining whether a Material Adverse Effect has occurred if it disproportionately adversely affects such Party and its Subsidiaries, taken as a whole, compared to other companies and their respective Subsidiaries, taken as a whole, of comparable size, operating in the industries in which such Party and its Subsidiaries operate, but, in such event, only the incremental disproportionate impact of any such Effect shall be taken into account in determining whether a Material Adverse Effect has occurred.

“McGraw-Hill Benefit Plan” means any Benefit Plan that is sponsored or maintained by, or required to be contributed to, or with respect to which any potential liability is borne by McGraw-Hill or any of its Subsidiaries.

“McGraw-Hill Credit Agreement” means the First Lien Credit Agreement, dated as of May 4, 2016, among McGraw Hill Global Education Intermediate Holdings, LLC, McGraw-Hill Issuer, the lenders and other parties from time to time party thereto, and Credit Suisse AG, Cayman Islands Branch, as administrative agent, and the loan documents relating thereto, in each case as amended, amended and restated, supplemented or otherwise modified from time to time.

“McGraw-Hill Equity Awards” means McGraw-Hill Options and McGraw-Hill RSU Awards.

“McGraw-Hill Option” means each option to purchase shares of Existing McGraw-Hill Common Stock granted under the McGraw-Hill Stock Plan.

“McGraw-Hill Rollover Option” means each McGraw-Hill Option that is not a McGraw-Hill Specified Option.

“McGraw-Hill RSU Award” means each restricted stock unit award relating to shares of Existing McGraw-Hill Common Stock granted under the McGraw-Hill Stock Plan.

“McGraw-Hill Specified Option” means each vested McGraw-Hill Option with a per share exercise price that is equal to or less than \$75.00.

“McGraw-Hill Stock Plan” means (i) the McGraw-Hill Management Equity Plan and (ii) the Engrade Inc. 2011 Stock Plan.

“Order” means any order, writ, judgment, temporary, preliminary or permanent injunction, decree, ruling, stipulation, determination, or award entered by or with any Governmental Entity.

“Ordinary Course” means, with respect to an action taken by any Person, that such action is in the ordinary course of business of such Person.

“Organizational Documents” means, with respect to any Person: (i) (A) that is a corporation, its articles or certificate of incorporation, memorandum and articles of association, as applicable, and bylaws, or comparable documents, (B) that is a partnership, its certificate of partnership and partnership agreement, or comparable documents, (C) that is a limited liability company, its certificate of formation and limited liability company or operating agreement, or comparable documents, (D) that is a trust or other entity, its declaration or agreement of trust or other constituent document or comparable documents and (E) that is not an individual, its comparable organizational documents; and (ii) any shareholders agreement, investors rights agreement or similar Contract entered into by any security holders of such Person and relating to such Person.

“Owned Real Property” with respect to Cengage or McGraw-Hill, means all land, together with all buildings, structures, improvements and fixtures located thereon, and all easements and other rights and interests appurtenant thereto, owned by Cengage and any of its Subsidiaries or McGraw-Hill and any of its Subsidiaries, as applicable.

“Permitted Encumbrances” means (i) mechanics’, materialmen’s, carriers’, workmen’s, repairmen’s, vendors’, operators’ or other like Encumbrances, if any, arising or incurred in the Ordinary Course that (A) relate to obligations as to which there is no default on the part of Cengage, McGraw-Hill or any of their respective Subsidiaries, and that do not materially detract from the value of or materially interfere with the use of any of the assets of the Party and its Subsidiaries as currently conducted or (B) are being contested in good faith through appropriate Proceedings and for which adequate reserves have been established in accordance with GAAP; (ii) Rights-of-Way, covenants, conditions, restrictions and other similar matters of record affecting title and other title defects of record or Encumbrances (other than those constituting Encumbrances for the payment of Indebtedness), if any, that do not or would not, individually or in the aggregate, impair in any material respect the use or occupancy of the assets of the Party and its Subsidiaries, taken as a whole; (iii) Encumbrances for Taxes or other governmental charges that are not yet due or payable or that are being contested in good faith through appropriate Proceedings and for which adequate reserves have been established in accordance with GAAP; (iv) Encumbrances supporting surety bonds, performance bonds and similar obligations issued in the Ordinary Course in connection with the businesses of the Party and its Subsidiaries; (v) Encumbrances not created by the Party or its Subsidiaries that affect the underlying fee interest of a Cengage Leased Real Property (in the case of Cengage) or McGraw-Hill Leased Real Property (in the case of McGraw-Hill); (vi) Encumbrances that are disclosed with specificity on the most recent consolidated balance sheet of the Party included in the Financial Statements or notes thereto or securing liabilities reflected on such balance sheet;

(vii) Encumbrances arising under or pursuant to the Organizational Documents of the Party or any of its Subsidiaries; (viii) with respect to Rights-of-Way, restrictions on the exercise of any of the rights under a granting instrument that are set forth therein or in another executed agreement, that is of public record or to which the Party or any of its Subsidiaries otherwise has access, between the parties thereto; (ix) as to McGraw-Hill or Cengage, Encumbrances resulting from any facts or circumstances relating to the other Party or any of its Affiliates; (x) Encumbrances that do not and would not reasonably be expected to materially impair, in the case of Cengage, the continued use of a Cengage Owned Real Property or a Cengage Leased Real Property as presently operated, and in the case of McGraw-Hill, the continued use of an McGraw-Hill Owned Real Property or an McGraw-Hill Leased Real Property as presently operated; (xi) non-exclusive licenses to Intellectual Property; (xii) restrictions or exclusions that would be shown by a current title report or other similar report; and (xiii) specified Encumbrances described in Section 8.7(a)(ii) of such Party's Disclosure Letter.

“Person” means an individual, corporation (including not-for-profit), Governmental Entity, general or limited partnership, limited liability company, joint venture, estate, trust, association, organization, unincorporated organization, other entity of any kind or nature or group (as defined in Section 13(d)(3) of the Exchange Act).

“Personal Data” means a natural person's name, street address, telephone number, e-mail address, photograph, identification number, social security number, government-issued identifier or tax identification number, driver's license number, passport number, credit card number, bank information, Internet protocol address, device identifier or any other piece of information that, alone or together with other information held by a Party and its Subsidiaries, allows the identification of a natural person.

“Proceeding” means any action, cause of action, claim, demand, litigation, suit, grievance, citation, summons, subpoena, inquiry, audit, hearing, originating application to a tribunal, arbitration or other similar proceeding of any nature, civil, criminal, regulatory, administrative or otherwise, whether in equity or at law, in contract, in tort or otherwise.

“Pro Forma Ratio” means the quotient of (i) the aggregate number of issued and outstanding shares of Existing McGraw-Hill Common Stock as of immediately prior to the Parent Merger Effective Time (which, for the avoidance of doubt, shall include McGraw-Hill Specified Option Delivered Shares, but not McGraw-Hill Specified Option Withheld Shares) *divided by* (ii) (A) the aggregate number of issued and outstanding shares of Cengage Common Stock as of immediately prior to the Parent Merger Effective Time (which, for the avoidance of doubt, shall include Cengage Specified Option Delivered Shares and Cengage RSU Delivered Shares, but not Cengage Specified Option Withheld Shares or Cengage RSU Withheld Shares) *minus* (B) the aggregate number of Dissenting Shares.

“Real Property” means, collectively, the Owned Real Property and the Leased Real Property.

“Real Property Lease” means all leases, subleases, licenses and other agreements under which each such Party and its Subsidiaries leases, subleases, licenses, uses or

occupies the Leased Real Property (in each case as tenant, subtenant, licensee, or pursuant to other occupancy arrangements).

“Registered Intellectual Property” means all Intellectual Property owned by McGraw-Hill and its Subsidiaries or Cengage and its Subsidiaries, as applicable, that is registered, recorded or filed under the authority of, with or by any Governmental Entity or Internet domain name registrar in any jurisdiction, including pending applications for any of the foregoing.

“Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing, or arranging for disposal, into the indoor or outdoor environment.

“Requisite Cengage Stockholder Approval” means the adoption of this Agreement by the holders of a majority of the outstanding shares of Cengage Common Stock.

“Requisite McGraw-Hill Stockholder Approval” means the approval of the Certificate Amendment by the holders of a majority of the outstanding shares of Existing McGraw-Hill Common Stock.

“Rights-of-Way” means easements, licenses, rights-of-way, permits, servitudes, leasehold estates, instruments creating an interest in real property, and other similar real estate interests.

“Subsidiary” means, with respect to any Person, any other Person of which (i) at least a majority of the securities or ownership interests of such other Person is directly or indirectly owned or controlled by such Person, or (ii) the power to vote or direct voting of sufficient voting securities, other voting rights or voting partner interests to elect a majority of the board of directors or other persons performing similar functions is directly or indirectly owned or controlled by such Person or by one or more of its Subsidiaries.

“Tax” means all federal, state, local and foreign income, windfall or other profits, franchise, gross receipts, environmental, customs duty, capital stock, severances, stamp, transfer, payroll, sales, employment, unemployment, disability, use, real and personal property, withholding, excise, production, value added, escheat, unclaimed property, occupancy and other taxes, levies, duties or assessments in each case in the nature of a tax, together with all interest, penalties and additions to Tax imposed with respect to such amounts and any interest in respect of such penalties and additions to Tax.

“Tax Return” means all returns and reports (including elections, declarations, claims for refund, disclosures, schedules, estimates and information returns) supplied to, or required to be supplied to, a Governmental Entity responsible for the administration or collection of Tax.

“Treasury Regulations” means Part 1 of Title 26, Chapter I, Subchapter A of the Code of Federal Regulations.

(b) The following terms are defined elsewhere in this Agreement, as indicated below:

280G Party	5.8(c)
Affiliate Agreements	3.20
Agreement	Preamble
Applicable Date	3.5(a)
Balance Sheet Date	3.6(a)
Bankruptcy and Equity Exception	3.3
Burdensome Effect	5.3(e)
Cancelled Shares	2.2(a)
Cengage	Preamble
Cengage Board	Recitals
Cengage Common Stock	2.1
Cengage Continuing Employees	5.8(a)
Cengage Disclosure Letter	Article III
Cengage Indenture	Article III
Cengage Intermediate Holdco	Preamble
Cengage Irrevocable Written Consent	5.14(a)
Cengage Issuer	Preamble
Cengage RSU Delivered Shares	2.4(c)(i)
Cengage RSU Earned Shares	2.4(c)(i)
Cengage RSU Withheld Shares	2.4(c)(i)
Cengage Shareholders Agreement	Article III
Cengage Specified Option Delivered Shares	2.4(c)(i)
Cengage Specified Option Earned Shares	2.4(c)(i)
Cengage Specified Option Withheld Shares	2.4(c)(i)
Cengage Tax Representation Letter	5.9(b)
Cengage's Counsel	5.9(b)
Certificate Amendment	1.1(c)(i)
Certificate Amendment Effective Time	1.3(b)
Certificate of Amendment	1.3(a)(iii)
Certificate of Issuer Ownership	1.3(a)(i)
Certificate of Merger	1.3(a)(iv)
Certificate of Ownership	1.3(a)(i)
Chosen Court	8.4(b)
Class A Common Stock	1.1(c)(i)(A)
Class B Common Stock	1.1(c)(i)(B)
Class C Common Stock	1.1(c)(i)(C)
Closing	1.2
Closing Date	1.2
Code	Recitals
Combined Corporation	1.1(c)(i)
Confidentiality Agreement	8.8
Continuing Employees	5.8(b)
Converted Cengage Option	2.4(a)(iii)
Converted Cengage RSU Award	2.4(a)(iv)

Converted McGraw-Hill Option	2.4(a)(i)
Converted McGraw-Hill RSU Award	2.4(a)(ii)
D&O Insurance	5.11(b)
Delaware Secretary	1.3(a)(i), 1.3(a)(i)
Delinquent Holder	2.6(b)
DGCL	Recitals, Recitals
Disclosure Letter	Article III
Dissenting Share	2.7
Dissenting Stockholder	2.7
DLLCA	Recitals
Encumber	4.1(a)
Encumbrance	4.1(a)
Existing McGraw-Hill Common Stock	1.1(c)(i)(A)
Extended Outside Date	7.2(a)
FCPA	3.11(e)
Filings	3.4(a)
Financial Statements	3.6(a)
Financing Transaction	5.5(a)
First Extended Outside Date	7.2(a)
Governmental Antitrust Entity	5.3(d)(i)
Holdco Merger	Recitals
Holdco Merger Effective Time	1.3(b)
Indemnified Parties	5.11(a)
Insurance Policies	3.16
Interested Party	3.20
Issuer Merger	Recitals
Issuer Merger Effective Time	1.3(b)
Labor Organization	3.10(a)
Material Contract	3.17(a)
McGraw-Hill	Preamble
McGraw-Hill Acquisition	4.1(b)
McGraw-Hill Board	Recitals
McGraw-Hill Continuing Employees	5.8(a)
McGraw-Hill Disclosure Letter	Article III
McGraw-Hill Holding Companies	4.1(b)
McGraw-Hill Indenture	Article III
McGraw-Hill Intermediate Holdco	4.1(b)
McGraw-Hill Issuer	Preamble
McGraw-Hill Parent	4.1(b)
McGraw-Hill Specified Option Delivered Shares	2.4(b)
McGraw-Hill Specified Option Earned Shares	2.4(b)
McGraw-Hill Specified Option Withheld Shares	2.4(b)
McGraw-Hill Stockholders Agreement	3.1(b)
McGraw-Hill Tax Representation Letter	5.9(b)
McGraw-Hill US Holdings	4.1(b)
McGraw-Hill's Counsel	5.9(b)

Merger Consideration	2.2(b)
Mergers	Recitals
Multiemployer Plan	3.9(b)
Non-U.S. Benefit Plans	3.9(i)
OFAC	3.11(d)
Original Outside Date	7.2(a)
Other Antitrust Approvals.....	5.3(a)
Outside Date.....	7.2(a)
Parent Merger.....	Recitals
Parent Merger Effective Time	1.3(b)
Party	Preamble
Regulatory Remedy	5.3(d)(ii)
Relevant Legal Restraint.....	6.1(c)
Reports	3.5(a)
Representatives	5.2(a)
Required FI Approval	5.3(a)
Requisite Regulatory Approvals.....	6.1(b)
Residual Common Stock.....	1.1(c)(i)(D)
Second Extended Outside Date.....	7.2(a)
Second Request.....	5.3(a)
Stockholder Notice.....	5.14(b)5.14
Surviving Corporation	1.1(a)
Surviving Issuer	1.1(d)
Tail Period.....	5.11(b)
Takeover Statute	3.12
Term Loan Agreement.....	Article III
Transactions	Recitals

8.8. Entire Agreement. This Agreement (including any exhibits hereto), the Cengage Disclosure Letter, the McGraw-Hill Disclosure Letter, the Mutual Non-Disclosure Agreement, dated as of November 2018, between Cengage and McGraw-Hill (the “**Confidentiality Agreement**”) and the Joint Defense Agreement, dated as of November 8, 2018, between McGraw-Hill and Cengage constitute the entire agreement among the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements, negotiations, understandings and representations and warranties, whether oral or written, with respect to such matters, except for the Confidentiality Agreement, which shall remain in full force and effect until the Closing.

8.9. Third-Party Beneficiaries. Cengage and McGraw-Hill hereby agree that their respective representations, warranties and covenants set forth in this Agreement are solely for the benefit of the other Parties hereto, in accordance with and subject to the terms of this Agreement, and this Agreement is not intended to, and does not, confer upon any Person other than McGraw-Hill, Cengage and their respective successors, legal representatives and permitted assigns any rights or remedies, express or implied, hereunder, including the right to rely upon the representations and warranties set forth in this Agreement, except with respect to (a) Section 5.11 and (b) after the Parent Merger Effective Time, the provisions of Article II relating to the payment of the Merger Consideration, any dividends or other distributions payable pursuant

thereto, which shall inure to the benefit of, and be enforceable by, holders of Cengage Common Stock and Cengage Equity Awards as of immediately prior to the Parent Merger Effective Time (to the extent necessary to receive the consideration and amounts due to such Persons thereunder). The representations and warranties in this Agreement are the product of negotiations among the Parties. Any inaccuracies in such representations and warranties are subject to waiver by the Parties in accordance with Section 8.2 without notice or liability to any other Person. In some instances, the representations and warranties in this Agreement may represent an allocation among the Parties of risks associated with particular matters regardless of the knowledge of any of the Parties. Consequently, Persons other than the Parties may not rely upon the representations and warranties in this Agreement as characterizations of actual facts or circumstances as of the date of this Agreement or as of any other date.

8.10. Fulfillment of Obligations. Whenever this Agreement requires a Subsidiary of McGraw-Hill to take any action, such requirement shall be deemed to include an undertaking on the part of McGraw-Hill to cause such Subsidiary to take such action and, after the Parent Merger Effective Time, on the part of the Combined Corporation to cause such Subsidiary to take such action. Whenever this Agreement requires a Subsidiary of Cengage to take any action, such requirement shall be deemed to include an undertaking on the part of Cengage to cause such Subsidiary to take such action and, after the Parent Merger Effective Time, on the part of the Combined Corporation to cause such Subsidiary to take such action. Any obligation of one Party to another Party under this Agreement, which obligation is performed, satisfied or fulfilled by an Affiliate of such Party, shall be deemed to have been performed, satisfied or fulfilled by such Party.

8.11. Non-Recourse. Unless expressly agreed to otherwise by the Parties in writing, this Agreement may only be enforced against, and any Proceeding in connection with, arising out of or otherwise resulting from this Agreement, any instrument or other document delivered pursuant to this Agreement or the transactions may only be brought against the Persons expressly named as Parties and then only with respect to the specific obligations set forth herein with respect to such Party. No past, present or future director, Employee (including any officer), incorporator, manager, member, partner, stockholder, other equity holder or Persons in a similar capacity, controlling person, Affiliate or other Representative of any Party or of any Affiliate of any Party, or any of their respective successors, Representatives and permitted assigns, shall have any liability or other obligation for any obligation of any Party under this Agreement or for any Proceeding in connection with, arising out of or otherwise resulting from this Agreement, any instrument or other document delivered pursuant to this Agreement or the Transactions.

8.12. Severability. The provisions of this Agreement shall be deemed severable and the illegality, invalidity or unenforceability of any provision shall not affect the legality, validity or enforceability of the other provisions of this Agreement. If any provision of this Agreement, or the application of such provision to any Person or any circumstance, is illegal, invalid or unenforceable, (a) a suitable and equitable provision shall be substituted therefor in order to carry out, insofar as may be legal, valid and enforceable, the intent and purpose of such illegal, invalid or unenforceable provision, and (b) the remainder of this Agreement and the application of such provision to other Persons or circumstances shall not be affected by such illegality, invalidity or unenforceability, nor shall such illegality, invalidity or unenforceability

affect the legality, validity or enforceability of such provision, or the application of such provision, in any other jurisdiction.

8.13. Interpretation; Construction.

(a) The table of contents and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof. All article, section, subsection, schedule, annex and exhibit references used in this Agreement are to articles, sections, subsections, schedules, annexes and exhibits to this Agreement unless otherwise specified. The exhibits, schedules and annexes attached to this Agreement constitute a part of this Agreement and are incorporated herein for all purposes.

(b) If a term is defined as one part of speech (such as a noun), it shall have a corresponding meaning when used as another part of speech (such as a verb). Unless the context of this Agreement clearly requires otherwise, words importing the masculine gender shall include the feminine and neutral genders and vice versa. The words “includes” or “including” shall mean “including without limitation,” the words “hereof,” “hereby,” “herein,” “hereunder” and similar terms in this Agreement shall refer to this Agreement as a whole and not any particular section or article in which such words appear and any reference to a Law shall such Law as amended from time to time and any rules and regulations promulgated thereunder. Currency amounts referenced herein are in U.S. Dollars. The word “or” is not meant to be exclusive, and shall be interpreted as “and/or.”

(c) Any documents and agreement referred to herein shall be deemed to have been “delivered,” “provided,” or “made available” (or any phrase of similar import) to by one Party to the other for purposes of this Agreement if they have been posted at least two (2) Business Days prior to the date of this Agreement to the “data rooms” or other “virtual rooms” prepared by the Parties in connection with the Transactions.

(d) A “copy” of any Contract or other document or instrument are to refer to a true, complete and correct copy thereof.

(e) Whenever this Agreement refers to a number of days, such number shall refer to calendar days unless Business Days are specified. Whenever any action must be taken hereunder on or by a day that is not a Business Day, then such action may be validly taken on or by the next day that is a Business Day.

(f) All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP.

(g) The Parties have participated jointly in negotiating and drafting this Agreement. In the event that an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any provision of this Agreement.

8.14. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors, legal representatives and permitted assigns. No Party may assign any of its rights or delegate any of its obligations under this Agreement, in whole or in part, by operation of Law or otherwise, directly or indirectly, without the prior written consent of the other Parties.

[Signature page follows]

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties to this Agreement as of the date first written above.

CENGAGE LEARNING HOLDINGS II, INC.

By: /s/ Michael Hansen
Name: Michael Hansen
Title: Chief Executive Officer

CENGAGE LEARNING HOLDCO, INC.

By: /s/ Michael Hansen
Name: Michael Hansen
Title: Chief Executive Officer

CENGAGE LEARNING, INC.

By: /s/ Michael Hansen
Name: Michael Hansen
Title: Chief Executive Officer

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the duly authorized officers of the parties to this Agreement as of the date first written above.

MCGRAW-HILL EDUCATION, INC.

By: /s/ Nana Banerjee
Name: Nana Banerjee
Title: President

MCGRAW-HILL GLOBAL EDUCATION
HOLDINGS, LLC

By: /s/ Nana Banerjee
Name: Nana Banerjee
Title: President

Exhibit A

Summary of Proposed Governance Arrangements of the Combined Corporation

(attached)

EXHIBIT A

SUMMARY OF PROPOSED GOVERNANCE ARRANGEMENTS OF THE COMBINED CORPORATION

The following is a description of the material terms of the proposed amended and restated certificate of incorporation of the Combined Corporation (the “**Certificate of Incorporation**”) to be filed with the Certificate of Merger and the Class B Stockholders Agreement. For purposes of this Exhibit A: (i) the Affiliates of Apollo Global Management, LLC that own shares of the Class A Common Stock are referred to herein, collectively, as the “**Apollo Stockholder**”; (ii) the Apollo Stockholder together with any other holders of the Class A Common Stock are referred to herein, collectively, as the “**Class A Stockholders**”; (iii) the Affiliates of KKR & Co. Inc. that own shares of the Class B Common Stock are referred to herein, collectively, as the “**KKR Stockholder**”; (iv) the Affiliates of Apax Partners LLP that own shares of the Class B Common Stock are referred to herein, collectively, as the “**Apax Stockholder**”; (v) the Affiliates of Searchlight Capital Partners that own shares of the Class B Common Stock are referred to herein, collectively, as the “**Searchlight Stockholder**” and, together with the KKR Stockholder, the Apax Stockholder and any other holders of the Class B Common Stock, the “**Class B Stockholders**”; (vi) the holders of the Class C Common Stock are referred to herein, collectively, as the “**Class C Stockholders**”; and (vii) the holders of any shares of Common Stock (regardless of class) of the Combined Corporation are referred to herein, collectively, as the “**Stockholders.**” “**Common Stock**” refers to the Class A Common Stock, the Class B Common Stock and the Class C Common Stock, collectively, and “**Voting Common Stock**” refers to the Class A Common Stock and the Class B Common Stock, collectively. All terms capitalized but not defined herein shall have the meanings associated with them as set forth in the Agreement.

General

The name of the Combined Corporation shall be “●” and the Combined Corporation shall be authorized to engage in any lawful act or activity for which corporations may be organized under the DGCL.

The Combined Corporation shall be entitled to issue, and the Stockholders may hold, fractional shares of Common Stock.

A Stockholder’s “**Equity Percentage**” means, at any applicable time, a percentage equal to the aggregate number of shares of Voting Common Stock owned by such Stockholder and its Affiliates *divided by* the aggregate number of issued and outstanding, on a basic basis, shares of Voting Common Stock, in each case at such time.

A Stockholder’s “**Original Equity Percentage**” means, at any applicable time, a percentage equal to the aggregate number of shares of Voting Common Stock owned by a Stockholder and its Affiliates at such time *divided by* the total number of shares of Voting Common Stock owned by a Stockholder and its Affiliates as of the Parent Merger Effective Time.

Rights, Privileges and Limitations of the Combined

Each share of the Common Stock (regardless of class) shall entitled to the same economic rights, but (i) the Class A Stockholders and the Class B Stockholders shall have the right to nominate directors and vote in the

**Corporation
Common Stock**

election of the board of directors of the Combined Corporation (the “**Board of Directors**”) and on other matters as set forth below and (ii) each share of Class C Common Stock will be non-voting and the Class C Stockholders will not have preemptive rights or tag along rights.

To ensure that, after giving effect to any Dissenting Shares, holders of Cengage Common Stock and Existing McGraw-Hill Common Stock receive the appropriate economics in the Combined Corporation, the Combined Corporation after Closing may pay a special dividend exclusively to the holders of Class A Common Stock equal to fifty percent (50%) of the aggregate amount actually paid by the Company with respect to such Dissenting Shares.

Sunset Events

The Residual Common Stock will be authorized, but shall remain unissued until immediately prior to the closing of an initial public offering of shares of the Combined Corporation or entity formed to facilitate such initial public offering (an “**IPO**”). Immediately prior to an IPO, each share of Class A Common Stock, Class B Common Stock and Class C Common Stock shall automatically convert into one (1) share of Residual Common Stock on a one-for-one basis (such exchange, a “**Conversion**”). A Conversion may also be effected if approved by the Requisite Board Majority (as defined below) and the requisite Stockholders (as set forth under “**Stockholder Action**”).

**Management
Shares and Equity
Awards**

Any shares delivered upon the exercise of equity awards and any other share issuances to employees or consultants of the Combined Corporation or its Subsidiaries pursuant to any equity plans approved by the Board of Directors from and after the Parent Merger Effective Time shall be shares of Class C Common Stock.

**Stockholder
Action**

Prior to an IPO, the following matters (in addition to any matters requiring a class vote under Delaware law) shall require the prior approval of the Class A Stockholders and Class B Stockholders representing a majority of the issued and outstanding shares of Class A Common Stock and Class B Common Stock, respectively, voting as separate classes:

- any Conversion (other than in connection with an IPO);
- any amendment, alteration, modification, waiver or repeal of any provision of the Certification of Incorporation, including any filing of a certificate of designation, or the by-laws of the Combined Corporation, including by means of merger, consolidation or otherwise, that adversely affects the voting powers, preferences, or other special rights or privileges, or restricts the rights, privileges, powers or immunities of any class of Common Stock;
- any non-*pro rata* dividend, distribution, redemption, repurchase or

other transaction (subject to agreed exceptions);

- any affiliate transaction or amendment thereto (subject to agreed exceptions, including for reasonable and mutually agreed fees payable to the Apollo Stockholder or its Affiliate and/or to the KKR Stockholder or its Affiliate in respect of capital markets transactions) (provided, that, for the avoidance of doubt, transactions with KKR Capstone at market rates will require the approval of a Requisite Board Majority and not a Stockholder vote); and
- any issuance that would result in any Person or group (as defined in the Exchange Act) having an Equity Percentage of fifty percent (50%) or more.

At any meeting of Stockholders, a stockholder may vote by proxy executed in writing (or in such manner prescribed by the DGCL) by such stockholder, or by such stockholder's duly authorized attorney in fact.

Stockholders representing a majority of the outstanding shares of Common Stock entitled to vote generally in the election of directors represented in person or by proxy shall constitute a quorum at a meeting of stockholders, except that when specified business is to be voted on by a class or series of Common Stock voting separately as a class, Stockholders representing a majority of the outstanding shares of such class or series shall constitute a quorum of such class or series for the transaction of such business.

Except as otherwise provided in this term sheet, the affirmative vote of a majority of the shares present in person or represented by proxy at the meeting and entitled to vote on the matter shall be the act of the Stockholders.

In the case of action to be taken by the Stockholders by written consent, no written consent shall be effective to take the action referred to therein unless written consents signed by a sufficient number of Stockholders to take such action are delivered to and received by the Combined Corporation in accordance with the DGCL.

Board of Directors

Prior to an IPO, the Combined Corporation shall have a nine (9)-person Board of Directors constituted as follows:

- Stockholders that hold a majority of the outstanding shares of Class A Common Stock shall be entitled to nominate three (3) directors for election to the Board of Directors (each a "**Class A Director**") and one (1) Independent Director (the "**Class A Independent Director**");
- Stockholders that hold a majority of the outstanding shares of Class B Common Stock shall be entitled to nominate for election to the Board

of Directors three (3) directors (each a “**Class B Director**”) and one (1) Independent Director (the “**Class B Independent Director**”); and

- the CEO will be nominated for election to the Board of Directors.

An “**Independent Director**” is any person that is not a current director, officer, associate, limited partner or employee of any Stockholder or its Affiliates or an officer or employee of any portfolio company of a Stockholder, and who is, in the reasonable and good faith judgment of the Stockholders nominating such director, has relevant experience and qualifications to serve as a director of the Combined Corporation.

Prior to an IPO, the Board of Directors shall be divided into three (3) classes, as nearly equal in number as is reasonably possible, with the term of office of the first (1st) class to expire at the first (1st) annual meeting of stockholders following the Closing, the term of office of the second (2nd) class to expire at the second (2nd) annual meeting of stockholders following the Closing, and the term of office of the third (3rd) class to expire at the third (3rd) annual meeting of stockholders following the Closing. At each annual meeting of stockholders, commencing with the fourth (4th) annual meeting of stockholders following the Closing, directors elected to succeed those directors whose terms then expire shall be elected for a term of office to expire at the third (3rd) succeeding annual meeting of stockholders after their election, with each director to hold office until such director’s respective successor is elected and qualified or until such director’s earlier death, resignation or removal.

All directors shall be elected by a plurality of the votes cast; provided, that (i) the Class A Stockholders, voting as a separate class, shall solely be entitled at each meeting called for the purpose of electing directors to vote on the election of the Class A Directors and the Class A Independent Director, and (ii) the Class B Stockholders, voting as a separate class, shall solely be entitled at each meeting called for the purpose of electing directors to vote on the election of the Class B Directors and the Class B Independent Director.

Each committee of the Board of Directors shall be comprised of at least one (1) Class A Director and one (1) Class B Director. Each Class A Director and Class B Director shall be entitled to attend any meeting of any committee of the Board of Directors, regardless of membership, in order to observe such meeting.¹

Prior to a Conversion, the Class A Stockholders shall have the sole right to remove and replace the Class A Directors and Class A Independent

¹ **Note to Draft:** Committee composition and size otherwise TBD.

Director and the Class B Stockholders shall have the sole right to remove and replace the Class B Directors and Class B Independent Director, and in each case may do so at any time and for any reason, by the vote of a majority of the issued and outstanding shares of the applicable class. Following a Conversion, Stockholders may only remove directors for cause.

Any vacancies resulting on the Board of Directors shall be filled in the manner described above.

Prior to an IPO, each Stockholder may appoint a non-voting observer to the Board of Directors so long as such Stockholder and its Affiliates have an Equity Percentage of at least seven percent (7%); provided, that no observer shall be entitled to compensation for their services but shall be entitled to reimbursement of reasonable, documented out-of-pocket expenses incurred in connection with attendance at meetings of the Board of Directors; provided, further, that for the avoidance of doubt, the observer shall be subject to customary confidentiality obligations and generally applicable board policies, and the Stockholder(s) that appointed such observer shall be responsible for the observer's compliance therewith.

Board Action

Each director shall have one (1) vote.

Prior to an IPO, at all meetings of the Board of Directors or any committee thereof, (i) a majority of the votes of the entire Board of Director or such committee, as applicable, shall constitute a quorum for the transaction of business, so long as there is at least one (1) Class A Director and one (1) Class B Director present (provided, that if a quorum is not present for any two (2) consecutive meetings duly called, each with at least five (5) Business Days' advance notice to all directors, another meeting may be called and the quorum for such meeting shall be a majority of the votes of the entire Board of Directors or such committee, as applicable), (ii) any action of the Board of Directors may be taken if approved by a Requisite Board Majority and (iii) any action of a committee of the Board of Directors may be taken if approved by a Requisite Committee Majority.

A "**Requisite Board Majority**" means the vote of at least five directors (other than the CEO). A "**Requisite Committee Majority**" means the vote of a majority of the members of such committee, including at least (A) one (1) Class A Director or the Class A Independent Director and (B) one (1) Class B Director or the Class B Independent Director.

Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if all members of the Board of Directors or committee, as the case may be, consent thereto in writing, or by electronic transmission and the writing

or writings or electronic transmission or transmissions are filed with the minutes of proceedings of the Board of Directors, or committee thereof.

The Board of Directors will hold regular quarterly meetings. Special meetings of the Board of Directors may be called at the request of a majority of the Board of Directors then in office.

**Issuances /
Preemptive Rights**

Prior to a Conversion, any issuance of a share of Class A Common Stock shall be accompanied by a corresponding issuance of a share of Class B Common Stock, unless otherwise determined by the Board of Directors.

Prior to an IPO, each Stockholder (other than any Class C Stockholder) shall have preemptive rights in connection with any issuance of new equity securities, including securities convertible into equity securities, subject to any limitations in the Certificate of Incorporation and the following exceptions:

- the issuance of shares at the Certificate Amendment Effective Time and the Parent Merger Effective Time;
- issuances of shares of Class C Common Stock (including upon exercise of options or awards) to employees, officers, directors and consultants of the Combined Corporation pursuant to any plan or arrangement adopted by the Board of Directors;
- issuances of shares of Common Stock (regardless of class) upon conversion or exercise of any outstanding options, warrants or other securities convertible into, or exchangeable for, shares of Common Stock;
- issuances of shares of in connection with any stock splits, stock dividends or recapitalizations;
- *pro rata* share dividends or distributions;
- issuances by the Combined Corporation to a wholly owned Subsidiary;
- issuances pursuant to IPO;
- issuances as a bona-fide “equity kicker” to a lender in connection with a debt financing from a lender that is not a Stockholder or any Affiliate thereof;
- issuances to a bona fide third party in connection with any business combination or acquisition transaction or any joint venture or strategic partnership; and

- issuances to which the Combined Corporation has received a written waiver of preemptive rights from each eligible Stockholder.

In any issuance subject to preemptive rights, each Stockholder (other than any Class C Stockholder) may, at its option, subscribe for a number of new securities in the proposed issuance of the same class up to its *pro rata* percentage (based on such Stockholder's Equity Percentage) of such new securities to be issued. It is understood and agreed that the Board of Directors will need to issue different classes of shares of Common Stock to permit each Stockholder (other than any Class C Stockholder) to exercise such Stockholder's preemptive right.

Tag Along Rights

Prior to an IPO, and subject to any other limitations, each Stockholder (other than Class C Stockholders) shall have customary tag-along rights in any proposed transfer by a Stockholder or group (as defined in the Exchange Act) with an Equity Percentage of twenty-five percent (25%) or more.

Tag along rights shall terminate upon an IPO.

Ownership Limitations

Ownership Limitation. Prior to any Conversion, no Stockholder or group (as defined in the Exchange Act) shall be permitted to acquire shares of Common Stock such that it would beneficially own, at any time, in excess of fifty percent (50%) of the outstanding shares of the Common Stock. Any attempt to own shares of Common Stock in violation of this restriction shall result in such acquisition (or attempted acquisition) being null and void. In addition, any Stockholder that purports to acquire (or attempts to acquire) any shares of Common Stock in violation of this ownership restriction shall indemnify and hold the Combined Corporation and each other Stockholder harmless against any and all losses, claims, damages or liabilities to any such Person in connection with or as a result of such purported acquisition (or attempted acquisition).

Stockholder Limitation. Prior to any Conversion, no holder of shares of Class A Common Stock shall acquire shares of Class B Common Stock (and *vice versa*) unless issued by the Combined Corporation after the Parent Merger Effective Time and approved by the Board of Directors. Any acquisition or attempted acquisition in violation of these restrictions shall be deemed to be null and void.

The above limitations shall terminate upon an IPO.

IPO; Registration Rights

Ability to Cause IPO. A Requisite Board Majority shall have the power to effect an IPO at any time (including by requiring the Stockholders to cooperate to implement an IPO, etc.); provided, that any actions taken by the Board of Directors or the Combined Corporation in connection with an IPO shall not alter in any substantive respect the rights granted to

each Stockholder under “Customary Registration Rights” (it being understood and agreed that the Combined Corporation, or another entity created to effect the IPO, may enter into a new shareholders or registration rights agreement with such Stockholders in lieu of including such provisions in the post-IPO corporation’s organizational documents).

On or after the third (3rd) anniversary of the Closing Date, (1) any Class A Stockholder or group of Class A Stockholders or (2) any Class B Stockholder or group of Class B Stockholders, in each of case (1) and (2) that had, collectively, an Equity Percentage of at least seventeen and one-half percent (17.5%) as of the Closing Date may cause the Combined Corporation to effect a demand registration with a minimum primary offering so long as each Stockholder effecting such demand holds an Original Equity Percentage of at least fifty percent (50%) at the time of such demand.

The Certificate of Incorporation will include appropriate provisions to best maintain pre-IPO governance protections of the parties while complying with the governance requirements applicable to non-controlled listed companies.

Customary Registration Rights. On or after the IPO, the Apollo Stockholder, the KKR Stockholder, the Apax Stockholder and Searchlight Stockholder shall be entitled to a *pro rata* number of demand registration/shelf-takedown rights based on its Equity Percentage as of the Parent Merger Effective Time, so long as at the time of such demand such Stockholder has an Original Equity Percentage of twenty-five percent (25%) or more.

In addition, the Stockholders shall be entitled to customary piggyback registration rights in any underwritten primary or secondary offering (subject to customary cutbacks), and shall agree to enter into customary post-IPO stockholder arrangements (including customary market standoff provisions).

Amendments

Amendments to the Combined Corporation’s Certificate of Incorporation may be made by the Board of Directors, subject to any Stockholder’s applicable approval right; provided, that any amendment to the Certificate of Incorporation or waiver of the terms or conditions thereof, in each case, that would materially and adversely affect a Stockholder relative to all other Stockholders shall require the prior written consent of such Stockholder.

The Combined Corporation’s by-laws may be amended by the Board of Directors.

Forum Selection

The Combined Corporation’s organizational documents shall contain

forum selection provisions.

Information Rights Stockholders shall continue to receive information about the Combined Corporation by virtue of the information rights of the bondholders under the Cengage and McGraw-Hill indentures.

Exhibit B

Cengage Irrevocable Written Consent

(attached)

Exhibit B

WRITTEN CONSENT OF STOCKHOLDERS IN LIEU OF A MEETING

May 1, 2019

The undersigned, being the stockholders of Cengage Learning Holdings II, Inc., a Delaware corporation (the “Company”), holding a majority of the outstanding shares of common stock, par value \$0.01 per share, of the Company (the “Stockholders”), acting by written consent in lieu of a special meeting, pursuant to the provisions of Section 228 of the General Corporation Law of the State of Delaware (the “DGCL”) and Section 9.2 of the Amended and Restated Certificate of Incorporation of the Company, hereby consent in writing to the adoption without a meeting of the following resolutions and to the taking of each of the actions contemplated hereby as of the date first written above:

WHEREAS, the Board of Directors of the Company (the “Board”) has unanimously (a) determined that the Agreement and Plan of Merger (the “Merger Agreement”), dated as of May 1, 2019, by and among the Company, McGraw-Hill Education, Inc., a Delaware corporation, McGraw-Hill Global Education Holdings, LLC (“McGraw-Hill Issuer”), a Delaware limited liability company, Cengage Learning Holdco, Inc., a Delaware corporation, and Cengage Learning, Inc., a Delaware corporation, and the transactions contemplated by thereby, including the merger of the Company with and into McGraw-Hill Issuer, with McGraw-Hill Issuer surviving (the “Parent Merger”), are fair to, and in the best interests of, the Company and its stockholders and (b) approved and declared advisable the Merger Agreement and the transactions contemplated by the Merger Agreement, including the Parent Merger, on the terms and subject to the conditions set forth in the Merger Agreement; and

WHEREAS, in accordance with the resolutions of the Board approving the Merger Agreement, the Company has executed and delivered the Merger Agreement and submitted the Merger Agreement and the Parent Merger to the stockholders of the Company for their adoption and approval.

Approval of Merger Agreement

NOW, THEREFORE, BE IT RESOLVED, that the Merger Agreement and the transactions contemplated thereby, including the Parent Merger, be, and they hereby are, adopted, ratified, approved and authorized in all respects by the Stockholders;

RESOLVED, that each of the undersigned hereby affirmatively waives and agrees not to exercise any dissenters’ right, appraisal right or similar right such Stockholder may have under applicable law (including Section 262 of the DGCL) arising in connection with the Parent Merger; and

RESOLVED, that the undersigned hereby waives compliance with any and all notice requirements imposed by the DGCL or other applicable law.

The actions taken by this written consent shall have the same force and effect as if taken at a meeting of the stockholders of the Company, duly called and constituted pursuant to the DGCL. This written consent and the actions taken hereby shall be binding upon and shall inure to the

benefit of the stockholders and their respective successors, assigns and transferees. This written consent shall be irrevocable, and any vote, consent or other action by any of the undersigned that is not in accordance with this written consent will be considered null and void; provided, and notwithstanding anything else to the contrary herein, this written consent shall terminate and be of no further force and effect upon the expiration or termination of the Merger Agreement, if such expiration or termination occurs prior to the Parent Merger Effective Time (as defined in the Merger Agreement).

[Signature Page Follows]

IN WITNESS WHEREOF, the Stockholders have executed this written consent as of the date first written above.

STOCKHOLDERS:

[KKR STOCKHOLDERS]

By: _____
Name:
Title:

[SCP STOCKHOLDERS]

By: _____
Name:
Title:

[APAX STOCKHOLDERS]

By: _____
Name:
Title: