

AMENDED & RESTATED LOAN AGREEMENT

DATED AS OF

MARCH 8, 2021

AMONG

KENZIE ACADEMY SPV, LLC, AS BORROWER

SOUTHERN NEW HAMPSHIRE UNIVERSITY, AS PARENT AND GUARANTOR

AND

CIM 14-I LLC, AS LENDER

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## AMENDED & RESTATED LOAN AGREEMENT

This Amended & Restated Loan Agreement is entered into as of March 8, 2021 (the “*A&R Closing Date*”), by and among Kenzie Academy SPV, LLC, a Delaware limited liability company (the “*Borrower*”), Southern New Hampshire University, a New Hampshire voluntary non-profit corporation (the “*Parent*”) and CIM 14-I LLC, a Delaware limited liability company (the “*Lender*”). All capitalized terms used herein without definition shall have the same meanings herein as such terms are defined in Section 1.1 hereof.

### PRELIMINARY STATEMENT

WHEREAS, the Borrower has requested, and the Lender has agreed to extend, a loan on the terms and conditions of this Agreement.

WHEREAS, the Borrower, the Lender and Kenzie Academy, Inc. (the “*Original Parent*”) previously executed the Loan Agreement, dated as of October 10, 2019 (the “*Initial Closing Date*”).

WHEREAS, the Original Parent has on the date hereof sold substantially all of its assets to the Parent, and the parties wish to amend and restate the Loan Agreement in its entirety.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

#### 1. DEFINITIONS; INTERPRETATION

**1.1** Definitions. The following terms when used herein shall have the following meanings:

“*Advance Date*” shall have meaning given to such term in Section 2.2.

“*Adverse Claim*” means a Lien or other right or claim of any Person, other than, with respect to the Assets in the Borrower Portfolio, any Lien or other right or claim in favor of the Lender.

“*Affiliate*” means, with respect to any Person, any other Person that (a) directly or indirectly controls, is controlled by or is under common control with such Person or (b) is an officer or director of such Person. A Person shall be deemed to be “controlled by” another Person if such other Person possesses, directly or indirectly, power (i) to vote ten percent (10%) or more of the securities (on a fully diluted basis) having ordinary voting power for the election of directors, managing partners, managers, managing members or trustees of such other Person, or (ii) to direct or cause the direction of the management and policies of such other Person whether by contract or otherwise. The word “*Affiliated*” has a correlative meaning.

“*Agent*” means each of the Master Servicer, the Subservicer, the Backup Servicer, the Verification Agent and such other agents as may be reasonably required by the Lender.

“*Agent Fees*” means (i) with respect to the Master Servicer, three percent (3.0%) of all collections on deposit in the Lender Account as of each Payment Date (it being understood that the Subservicer shall be paid by the Master Servicer), (ii) with respect to the Backup Servicer, the fees due to the Backup Servicer pursuant to the Backup Servicing Agreement, (iii) with respect to the Verification Agent, the fees due to the Verification Agent pursuant to the Verification Agent Agreement, and (iv) with respect to any other agents, such agent fees as may be reasonably determined by the Lender.

**“Agreement”** means this Loan Agreement, as the same may be amended, modified, or restated from time to time in accordance with the terms hereof.

**“Alternate Rate”** means the annual rate of interest equal to a floating rate index (a) that is commonly accepted by market participants in similar loans as an alternative to LIBOR, as determined by the Lender in its reasonable discretion following consultation with the Borrower and the Guarantor, (b) that is publicly recognized by the International Swaps and Derivatives Association (“ISDA”) as an alternative to LIBOR and (c) for which ISDA has approved an amendment to, or protocol which has the effect of amending or replacing pre-existing hedge agreements, generally providing such floating rate index as a standard alternative to LIBOR.

**“Anti-Corruption Laws”** means any law or regulation of the United States of America regarding bribery or any other corrupt activity, including the U.S. Foreign Corrupt Practice Act (“FCPA”).

**“Anti-Money Laundering Laws”** means any law or regulation of the United States of America regarding money laundering, drug trafficking, terrorist-related activities or other money laundering predicate crimes, including the Currency and Foreign Transactions Reporting Act of 1970 (otherwise known as the Bank Secrecy Act) and the USA Patriot Act.

**“Asset”** means each ISA Asset or Participation Asset.

**“Asset Purchase Agreement”** means that certain Asset Purchase Agreement between the Parent and the Borrower, dated as of October 10, 2019, as amended and restated on the date hereof, and as amended from time to time.

**“Authorized Representative”** means those persons shown on the list of officers of the Borrower pursuant to Section 7.2 hereof or on any update of any such list provided by the Borrower to the Lender, or any further or different officer of the Borrower so named by any Authorized Representative of the Borrower in a written notice to the Lender.

**“Backup Servicer”** means Launch Servicing, LLC, and any successor or replacement backup servicers pursuant to Section 8.1(xvii).

**“Backup Servicing Agreement”** means the Backup Servicing Agreement dated as of April 1, 2020 among the Borrower, the Master Servicer and the Backup Servicer, and any replacement backup servicing agreement in accordance with Section 8.1(xvii).

**“Bankruptcy Event”** means, with respect to any Person, any of the following: (a) a court of competent jurisdiction shall enter a decree or order for relief in respect of such Person in an involuntary case under any Debtor Relief Law, which decree or order is not stayed, or any other similar relief shall be granted under any applicable federal or state law; or (b) an involuntary case shall be commenced against such Person under any Debtor Relief Law; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other officer having similar powers over such Person, or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of such Person for all or a substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any substantial and material part of the property of such Person, and any such event described in this clause (b) shall continue for ninety (90) days without having been dismissed, bonded or discharged; or (c) such Person shall commence a voluntary case under any Debtor Relief Law, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking

possession by a receiver, trustee or other custodian for all or a substantial part of its property; or such Person shall make any assignment for the benefit of creditors; or (d) such Person shall be unable, or shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due; or (e) the board of directors (or similar governing body) of such Person shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to in this definition.

**“Borrower”** is defined in the introductory paragraph hereof.

**“Borrower Account”** means deposit account no. 5795754240 at Zions Bancorporation, N.A. dba California Bank & Trust.

**“Borrower Account Control Agreement”** means that certain deposit account control agreement dated October 10, 2019 among the Borrower, the Lender and Zions Bancorporation, N.A. dba California Bank & Trust, as account bank, with respect to the Borrower Account.

**“Borrower Asset”** means each Asset owned by the Borrower.

**“Borrower Portfolio”** means all Assets owned by the Borrower.

**“Business Day”** means any day other than a Saturday or Sunday or other day on which national banks are required or permitted to be closed in New York, New York or San Francisco, California.

**“Cash Trap Event”** shall have the meaning given to such term in Section 9.1.

**“Code”** means the Internal Revenue Code of 1986, as amended, and any successor statute thereto.

**“Collateral”** means all properties, rights, interests, and privileges from time to time subject to the Liens granted to the Lender by the Borrower under the Collateral Documents.

**“Collateral Documents”** means the Security Agreement, the Deposit Account Control Agreements and all other mortgages, deeds of trust, security agreements, assignments, financing statements and other documents as shall from time to time secure the Obligations or any part thereof.

**“Collection Account”** means deposit account no. 5795754257 at Zions Bancorporation, N.A. dba California Bank & Trust.

**“Collection Account Control Agreement”** means that certain deposit account control agreement dated October 10, 2019 among the Borrower, the Lender and Zions Bancorporation, N.A. dba California Bank & Trust, as account bank, with respect to the Collection Account.

**“Commitment”** is defined in Section 2.1 hereof.

**“Conditional Assignment Agreement”** means the Conditional Assignment Agreement, dated as of October 16, 2019 among Borrower, Master Servicer and Subservicer, as amended, modified, supplemented or replaced from time to time.

**“Debtor Relief Laws”** means the Bankruptcy Code of the United States of America, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States of America from time to time in effect.

**“Default”** means any event or condition the occurrence of which would, with the passage of time or the giving of notice, or both, constitute an Event of Default.

**“Defaulted Asset”** means, as of any date of determination, any Borrower Asset (a) as to which a Bankruptcy Event has occurred with respect to the related ISA Obligor; (b) the Borrower or the Parent reasonably believes that such Borrower Asset has been originated as a result of fraud; (c) all or any portion of which has been or should have been, in the reasonable determination of the Lender, written off as uncollectible; (d) as to which any portion of a payment remains unpaid for six months or more from the original due date for such payment; or (e) as to which the related ISA Obligor has failed to provide (i) income documentation as required pursuant to the applicable Income Share Agreement within one year of its due date or (ii) tax documentation as required pursuant to the applicable Income Share Agreement within thirty days of the applicable deadline or request.

**“Deposit Account Control Agreement”** means each of the Collection Account Control Agreement and the Borrower Account Control Agreement.

**“Disposition”** means the sale, lease, conveyance or other disposition of Property of the Borrower or any other return of capital or distribution by the Borrower.

**“Eligible Program”** shall have the meaning given to such term in Schedule 1.

**“Environmental Laws”** means any and all federal, state, local, and foreign statutes, Laws, regulations, ordinances, rules, judgments, orders, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions, including all common law, relating to pollution or the protection of health, safety or the environment or the release of any materials into the environment, including those related to Hazardous Materials, air emissions, discharges to waste or public systems and health and safety matters.

**“Environmental Liability”** means any liability or obligation, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), directly or indirectly, resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment, disposal or permitting or arranging for the disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.

**“Equity Interests”** means, as to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

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

**“ERISA Affiliate”** means any trade or business (whether or not incorporated) under common control with the Borrower within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and (o) of the Code for purposes of provisions relating to Section 412 of the Code or Section 302 of ERISA).



**“ERISA Event”** means (a) a Reportable Event with respect to a Pension Plan; (b) the failure by the Borrower or any ERISA Affiliate to meet all applicable requirements under the Pension Funding Rules or the filing of an application for the waiver of the minimum funding standards under the Pension Funding Rules; (c) the incurrence by the Borrower or any ERISA Affiliate of any liability pursuant to Section 4063 or 4064 of ERISA or a cessation of operations with respect to a Pension Plan within the meaning of Section 4062(e) of ERISA; (d) a complete or partial withdrawal by the Borrower or any ERISA Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in reorganization or insolvent (within the meaning of Title IV of ERISA); (e) the filing of a notice of intent to terminate a Pension Plan under, or the treatment of a Pension Plan amendment as a termination under, Section 4041 of ERISA; (f) the institution by the PBGC of proceedings to terminate a Pension Plan; (g) any event or condition that constitutes grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (h) the determination that any Pension Plan is in at-risk status (within the meaning of Section 430 of the Code or Section 303 of ERISA) or that a Multiemployer Plan is in endangered or critical status (within the meaning of Section 432 of the Code or Section 305 of ERISA); (i) the imposition or incurrence of any liability under Title IV of ERISA, other than for PBGC premiums due but not delinquent under Section 4007 of ERISA, upon the Borrower or any ERISA Affiliate; (j) the engagement by the Borrower or any ERISA Affiliate in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; (k) the imposition of a lien upon the Borrower pursuant to Section 430(k) of the Code or Section 303(k) of ERISA; or (l) the making of an amendment to a Pension Plan that could result in the posting of bond or security under Section 436(f)(1) of the Code.

**“Event of Default”** shall have the meaning given to such term in Section 9.2.

**“Face Value”** means, with respect to any Asset, the ISA Amount, as defined in the applicable Income Share Agreement.

**“Fully Paid Asset”** means an Asset with respect to which the ISA Obligor owes no further monthly payments under the applicable Income Share Agreement.

**“Foreign Plan”** means any employee pension benefit plan, program, policy, arrangement or agreement maintained or contributed to by the Borrower or any Affiliate with respect to employees employed outside the United States (other than any governmental arrangement).

**“GAAP”** means United States generally accepted accounting principles as in effect as of the date of determination thereof.

**“Governmental Authority”** means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

**“Graduation Date”** shall have the meaning given to such term in the Asset Purchase Agreement.

**“Graduation Rate”** means, with respect to any ISA Cohort, the percentage equal to (i) the number of ISA Obligors of Qualifying Assets in such ISA Cohort whose Graduation Date occurs within fifteen months following commencement by such ISA Obligor of the program funded by the applicable Income Share Agreement, divided by (ii) the total number of ISA Obligors of Qualifying Assets in such ISA Cohort.

**“Guarantor”** means the Parent.

**“Guaranty”** is defined in Section 5.3 hereof.

**“Hazardous Materials”** means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes, and other substances or wastes of any nature regulated under or with respect to which liability or standards of conduct are imposed pursuant to any Environmental Law.

**“Income Share Agreement”** means each Income Share Agreement between the Parent and the applicable ISA Obligor, substantially in the form attached hereto as Exhibit A.

**“Indebtedness”** of any Person at any date, without duplication, means (a) all indebtedness of such Person for borrowed money; (b) all obligations of such Person for the deferred purchase price of property or services other than trade payables incurred in the ordinary course of business; (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments; (d) all indebtedness created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even though the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property); (e) all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interests in such Person or any other Person or any warrants, rights or options to acquire such Equity Interests, valued, in the case of redeemable preferred interests, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; (f) all obligations of such Person, contingent or otherwise, as an account party or applicant under acceptance, letter of credit or similar facilities in respect of obligations of the kind referred to in subsections (a) through (e) of this definition; (g) all guaranty obligations of such Person in respect of obligations of the kind referred to in subsections (a) through (f) above; and (h) all obligations of the kind referred to in subsections (a) through (g) above secured by (or which the holder of such obligation has an existing right, contingent or otherwise, to be secured by) any Lien on property (including accounts and contract rights) owned by such Person, whether or not such Person has assumed or become liable for the payment of such obligation.

**“Intangible Assets”** means the excess of the cost over book value of assets acquired, trademarks, trade names, copyrights, franchises and other intangible assets.

**“Interest Period”** means each calendar month from the Initial Closing Date until the Maturity Date; provided that the first Interest Period shall begin on the date of the first Loan hereunder and end on the last day of the calendar month in which such Loan is made and the last Interest Period shall begin on the first day of the calendar month in which the Maturity Date occurs and end on the Maturity Date.

**“Investment”** means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor incurs Indebtedness of the type referred to in clause (g) of the definition of “Indebtedness” in respect of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment but giving effect to any returns or distributions of capital or repayment of principal actually received in case by such Person with respect thereto.

**“Investor Payment”** means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of any Person, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation, withdrawal or termination of any such Equity Interest, or on account of any return of capital to such Person’s shareholders, partners or members (or the equivalent Persons thereof).

**“ISA Asset”** means each Income Share Agreement entered into between the Parent and an ISA Obligor. For the avoidance of doubt, each such Income Share Agreement shall be an ISA Asset regardless of whether it is a Qualifying ISA Asset.

**“ISA Cohort”** means (a) with respect to the first ISA Cohort, the group of Assets in the Borrower Portfolio originated in the period starting on the Initial Closing Date and ending on the later of (i) the first anniversary of the Initial Closing Date or (ii) the date on which the Loans made in connection with Assets in such ISA Cohort have an aggregate principal amount of at least \$5,000,000, and (b) with respect to each later ISA Cohort, the group of Assets in the Borrower Portfolio originated in the period starting on the date immediately following the date on which the prior ISA Cohort ends and ending on the later of (i) the first anniversary of such date or (ii) the date on which the Loans made in connection with Assets in such ISA Cohort have an aggregate principal amount of at least \$10,000,000; provided that the first ISA Cohort shall also include the Assets listed on Schedule 3, which were originated prior to the Initial Closing Date. For the avoidance of doubt, any ISA Cohort may include Assets that are not Qualifying Assets which have been contributed to the Borrower by the Parent with the prior consent of the Lender, it being understood that the Lender shall not make any Loans in connection with the contribution of such Assets to the Borrower.

**“ISA Default Rate”** means, as of any date of determination, in respect of any ISA Cohort, a percentage equal to (a) the number of Qualifying Assets that are Defaulted Assets in such ISA Cohort divided by (b) the total number of Qualifying Assets in such ISA Cohort.

**“ISA Obligor”** means a Person that enters into an Income Share Agreement with the Parent.

**“ISA Repurchase Price”** shall have the meaning given to such term in the Asset Purchase Agreement.

**“Job Placement Rate”** means, with respect to any ISA Cohort, the percentage of ISA Obligors of Qualifying Assets in such ISA Cohort who have reported a monthly salary at least equal to the applicable Minimum Salary as of the date that is six months after the applicable ISA Obligor’s Graduation Date.

**“Kenzie Group”** means the Borrower, the Parent and all of their respective Subsidiaries and Affiliates.

**“Laws”** means, collectively, all international, foreign, federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.

**“Lender”** is defined in the introductory paragraph hereof.

**“Lender Account”** means the account designated by Lender for receiving payments under this Agreement, as may be updated from time to time by the Lender upon written notice to the Borrower.

**“LIBOR”** means, for any Interest Period, the rate per annum equal to the London Interbank Offered Rate for a period equal to three months as reported in *The Wall Street Journal* (or if LIBOR is not reported in *The Wall Street Journal* at such time, such other authoritative source selected by the Parties) on the first day of such Interest Period (or, if such day is not a London banking day, the immediately preceding London banking day); provided that if LIBOR has been discontinued, any reference to LIBOR shall be replaced with the Alternate Rate.

**“Lien”** means any (a) mortgage, pledge, hypothecation, collateral assignment, deposit arrangement, encumbrance (statutory or other), charge, preference, priority or other security interest or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing); (b) purchase or option agreement or put arrangement; (c) subordination agreement or arrangement; (d) prior sale, transfer, assignment or participation by Borrower (or its Affiliates, as applicable) of an Asset; or (e) agreement to create or effect any of the foregoing.

**“Loan”** is defined in Section 2.1 hereof.

**“Loan Documents”** means this Agreement, the Collateral Documents, the Guaranty, the Participation Agreement, the Asset Purchase Agreement, the Servicing Agreement, the Conditional Assignment Agreement, the Verification Agent Agreement, the Backup Servicing Agreement and each other instrument or document to be delivered hereunder or thereunder or otherwise in connection therewith.

**“Margin Stock”** means margin stock within the meaning of Regulations T, U and X.

**“Master Servicer”** means Southern New Hampshire University, in its capacity as master servicer under the Servicing Agreement.

**“Material Adverse Effect”** means (a) with respect to the Borrower or Guarantors, (i) a material adverse change in, or a material adverse effect on, the operation, business, properties, liabilities (actual or contingent) or condition (financial or otherwise) of the Borrower or the Guarantor; or (ii) a material adverse effect on (1) the ability of the Borrower to perform its Obligations, (2) the legality, validity, binding effect or enforceability against the Borrower of any Loan Document to which it is a party or (3) the rights, remedies and benefits available to, or conferred upon, the Lender under any Loan Documents; or (b) with respect to the Assets, a material adverse effect upon the legality, validity, binding effect, collectability or enforceability of such Asset, as reasonably determined by the Lender.

**“Maturity Date”** means the date on which all Loans hereunder shall be repaid in full.

**“Minimum Salary”** means, with respect to any ISA Obligor, the minimum monthly earned income for such ISA Obligor to be required to make monthly payments pursuant to the applicable Income Share Agreement; provided that the Minimum Salary shall be at least \$3,333.34.

**“Multiemployer Plan”** means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which the Borrower or any ERISA Affiliate makes or is obligated to make contributions, during the preceding five plan years has made or been obligated to make contributions, or has any liability.

**“Multiple Employer Plan”** means a Plan with respect to which the Borrower or any ERISA Affiliate is a contributing sponsor, and that has two or more contributing sponsors at least two of whom are not under common control, as such a plan is described in Section 4064 of ERISA.

**“Non-Payor Rate”** means, as of any date of determination, with respect to any ISA Cohort, a percentage equal to (a) the number of Qualifying ISA Assets in such ISA Cohort in respect of which the applicable ISA Obligor is not making monthly payments, regardless of whether such ISA Obligor is earning the applicable Minimum Salary, divided by (b) the total number of Qualifying ISA Assets in such ISA Cohort.

**“Non-Performing ISA Cohort”** means, at any time, an ISA Cohort in connection with which (i) Loans made hereunder remain outstanding and (ii) either (a) every Asset in such ISA Cohort is either a Defaulted Asset or a Fully Paid Asset or (b) the remaining collections that could become payable on the Assets in such ISA Cohort (excluding Defaulted Assets) are not sufficient to pay all principal of and accrued but unpaid interest on the Loans made in connection with such ISA Cohort; provided that after an ISA Cohort becomes a Non-Performing ISA Cohort, it shall continue to be treated as a Non-Performing ISA Cohort for purposes of this Agreement until no Loans made in connection with such ISA Cohort remain outstanding.

**“Obligations”** means all obligations of the Borrower to pay principal and interest on the Loans, all fees and charges payable hereunder, and all other payment obligations of the Borrower arising under any Loan Document, in each case whether now existing or hereafter arising, due or to become due, direct or indirect, absolute or contingent.

**“OFAC”** shall have the meaning given to such term in Section 6.16.

**“Parent”** means Southern New Hampshire University, a New Hampshire voluntary non-profit corporation.

**“Participation Agreement”** means that certain Participation Agreement between the Parent and the Borrower, dated as of October 10, 2019, as amended and restated on the date hereof, and as amended, modified, supplemented or restated from time to time.

**“Participation Asset”** means each participation interest purchased by the Borrower in an Income Share Agreement entered into between the Parent and an ISA Obligor. For the avoidance of doubt, each such participation interest in an Income Share Agreement shall be a Participation Asset regardless of whether it is a Qualifying Participation Asset.

**“Participation Repurchase Price”** shall have the meaning given to such term in the Participation Agreement.

**“Payment Date”** means, with respect to each Interest Period, the fifth (5<sup>th</sup>) Business Day following delivery by the Lender of the notice to the Borrower of the Priority of Payments in respect of such Interest Period pursuant to Section 4.3.

**“PBGC”** means the Pension Benefit Guaranty Corporation or any Person succeeding to any or all of its functions under ERISA.

**“Pension Act”** means the Pension Protection Act of 2006.

**“Pension Funding Rules”** means the rules of the Code and ERISA regarding minimum funding standards and minimum required contributions (including any installment payment thereof) to Pension Plans and Multiemployer Plans and set forth in, with respect to plan years ending prior to the effective date of the Pension Act, Section 412 of the Code and Section 302 of ERISA, each as in effect prior to the Pension

Act and, thereafter, Sections 412, 430, 431, 432 and 436 of the Code and Sections 302, 303, 304 and 305 of ERISA.

**“Pension Plan”** means any employee pension benefit plan (including a Multiple Employer Plan, but excluding a Multiemployer Plan) that is maintained or is contributed to by the Borrower or any ERISA Affiliate and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

**“Person”** means any natural Person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

**“Plan”** means any employee benefit plan within the meaning of Section 3(3) of ERISA, maintained for employees of the Borrower or any Affiliate, or any such plan to which the Borrower or any Affiliate is required to contribute on behalf of any of its employees or with respect to which the Borrower has any liability.

**“Priority of Payments”** shall have the meaning given to such term in Section 3.6.

**“Property”** means any interest in any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

**“Qualifying Asset”** shall have the meaning given to such term on Schedule 1 hereto.

**“Qualifying ISA Asset”** shall have the meaning given to such term on Schedule 1 hereto.

**“Qualifying Participation Asset”** shall have the meaning given to such term on Schedule 1 hereto.

**“Reduced Interest Rate”** means, as of any date of determination, the weighted average interest rate applicable to the aggregate outstanding principal amount of all Loans equal to (a) on the outstanding principal amount up to \$30,000,000, the greater of (i) twelve percent (12.00%) per annum and (ii) the lesser of (A) fifteen percent (15.00%) per annum and (B) LIBOR plus eight and three-quarters percent (8.75%) per annum and (b) on the outstanding principal amount above \$30,000,000, the greater of (i) ten percent (10.00%) per annum and (ii) the lesser of (A) fifteen percent (15.00%) per annum and (B) LIBOR plus six and three-quarters percent (6.75%) per annum.

**“Regulation T”** means Regulation T of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

**“Regulation U”** means Regulation U of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

**“Regulation X”** means Regulation X of the Federal Reserve Board, as in effect from time to time and all official rulings and interpretations thereunder or thereof.

**“Regulatory Event”** means any one of the following events: (a) a court or governmental authority rules, orders, decrees, enacts, proclaims or publishes any guidance, guideline, interpretation, injunction, directive, proclamation, promulgation, requirement, order, judgment, policy statement, law, regulation, rule, statute, writ or finding, in the context of an action, suit, proceeding, investigation, claim, allegation or otherwise that any owner of an income share agreement or any other asset substantially similar to the Income Share Agreements is not entitled to enforce the terms of such agreement, and such ruling, order, decree, enactment, proclamation or publication would reasonably be expected to have a material adverse

effect on the validity, enforceability or collectability of a material portion of the Assets; (b) the passage or adoption of any law, rule or regulation providing for the illegality or invalidity of income share agreements or any other asset substantially similar to the Income Share Agreements, or providing that any owner of an income share agreement substantially similar to the Income Share Agreements (and in any event limited to the jurisdiction of the governmental authority) is not entitled to enforce the terms of such agreement, and such law, rule or regulation would reasonably be expected to have a material adverse effect on the validity, enforceability or collectability of a material portion of the Assets; or (c) the passage or adoption of any law, rule or regulation, or any ruling by a court or governmental authority, making it unlawful for the Lender to make or maintain the Loans hereunder or be granted a security interest in the Income Share Agreements.

**“Repurchase Deficit”** means, with respect to any Repurchased Asset, the amount, if any, by which the outstanding principal balance of and any accrued but unpaid interest on the Loan in connection with such Repurchased Asset exceeds the Repurchase Price of such Asset.

**“Repurchase Price”** means the ISA Repurchase Price or Participation Repurchase Price, as applicable.

**“Repurchased Asset”** means any (i) ISA Asset repurchased by the Parent pursuant to Section 2.4 of the Asset Purchase Agreement or (ii) Participation Asset repurchased by the Parent pursuant to Section 2.4 of the Participation Agreement.

**“Sanctions”** shall have the meaning given to such term in Section 6.16.

**“Security Agreement”** means that certain Security Agreement dated as of October 10, 2019, between the Borrower and the Lender, as the same may be amended, modified, supplemented or restated from time to time.

**“Servicing Agreement”** means that certain Servicing Agreement dated as of October 10, 2019, between the Borrower and the Master Servicer, as amended and restated on the date hereof, and as amended, modified, supplemented or restated from time to time.

**“SNHU Loan Agreement”** means that certain loan agreement and mortgage, dated as of August 1, 2014, by and between Southern New Hampshire University and New Hampshire Health and Education Facilities Authority, in the form partially provided to the Lender by the Parent as of the A&R Closing Date.

**“Starting Salary”** means, with respect to any ISA Obligor, such ISA Obligor’s reported monthly salary on the date that is three months after such ISA Obligor’s Graduation Date; provided that if no salary is reported by such ISA Obligor as of such date, the Starting Salary shall be deemed to be \$0.

**“Subservicer”** shall have the meaning given to such term in the Servicing Agreement.

**“Subsidiary”** means any corporation or other Person more than fifty percent (50%) of the outstanding ordinary voting shares or other Equity Interests of which is at the time directly or indirectly owned by the Borrower, by one or more of its Subsidiaries, or by the Borrower and one or more of its Subsidiaries.

**“Termination Date”** means the earliest to occur of (i) the date on which the Lender has made Loans to the Borrower in an aggregate amount of \$100,000,000, (ii) if such date specified in clause (i) has not occurred prior to the fifth anniversary of the Initial Closing Date, such date following the fifth anniversary of the Initial Closing Date as selected by the Lender in its sole discretion, or (iii) the date on which the Lender delivers a notice to the Borrower pursuant to Section 9.3(i)(a).

***“Underlying ISA Documents”*** means, collectively, with respect to any Asset, the Income Share Agreement, the Participation Disclosure, the Final Disclosure, the Registration Form, the Consent to Electronic Communications, each supplement, each guaranty, each pledge or security agreement, and each other loan document as all such terms are defined in the applicable Income Share Agreement, all as amended or extended from time to time.

***“Underwriting Policy”*** means the Initial Underwriting Policy set forth on Exhibit B; provided that such policies may be modified by the Parent from time to time after the date hereof in accordance with Section 8.2(ix).

***“U.S. Economic Sanctions Laws”*** means those laws, executive orders, enabling legislation or regulations administered and enforced by the United States pursuant to which economic sanctions have been imposed on any Person, entity, organization, country or regime, including the Trading with the Enemy Act, the International Emergency Economic Powers Act, the Iran Sanctions Act, the Sudan Accountability and Divestment Act and any other OFAC Sanctions Programs.

***“Verification Agent”*** means Wilmington Savings Fund Society, FSB, and any successor or replacement verification agents pursuant to Section 8.1(xvii).

***“Verification Agent Agreement”*** means the Verification Agent Agreement dated as of February 4, 2020 among the Borrower, the Parent and the Verification Agent, or any replacement verification agent agreement in accordance with Section 8.1(xvii).

***“Year Two Salary”*** means, with respect to any ISA Obligor, such ISA Obligor’s reported monthly salary on the date that is fifteen months after such ISA Obligor’s Graduation Date; provided that if no salary is reported by such ISA Obligor as of such date, the Year Two Salary shall be deemed to be \$0.

***“Year Three Salary”*** means, with respect to any ISA Obligor, such ISA Obligor’s reported monthly salary on the date that is twenty-seven months after such ISA Obligor’s Graduation Date; provided that if no salary is reported by such ISA Obligor as of such date, the Year Three Salary shall be deemed to be \$0.

***“Year Four and Subsequent Salary”*** means, with respect to any ISA Obligor, such ISA Obligor’s reported monthly salary on the most recent of (i) the date that is thirty-nine months after such ISA Obligor’s Graduation Date and (ii) each anniversary of such date specified in clause (i); provided that if no salary is reported by such ISA Obligor as of such date, the Year Four and Subsequent Salary shall be deemed to be \$0.

**1.2 Interpretation.** References to “Articles,” “Sections,” “Exhibits,” and “Schedules” are to articles, sections, exhibits and schedules herein and hereto unless otherwise indicated. “Hereof,” “herein” and “hereunder” refer to this Agreement as a whole. “Including” is not limiting. All accounting and financial computations shall be computed in accordance with GAAP. “Or” is not necessarily exclusive. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Unless otherwise expressly indicated, the meaning of any term defined (including by reference) shall be equally applicable to both the singular and plural forms of such term.

**1.3 Rules of Construction.** This Agreement shall be construed fairly as to each party hereto and if at any time such term or condition is desired or required to be interpreted or construed, no consideration shall be given to the issue of which party prepared, drafted, or requested that term or condition or the Agreement.



## 2. THE LOAN

**2.1 Delayed Draw Term Loans.** Subject to the terms and conditions hereof, the Lender may make loans (each such loan being hereinafter referred to individually as a “*Loan*” and collectively as the “*Loans*”), at any time on or before the Termination Date, each in an amount not to exceed (i) with respect to the purchase by the Borrower of Qualifying Participation Assets, thirty percent (30%) of the aggregate Face Value of such Assets to be purchased by the Borrower on the applicable Advance Date, (ii) with respect to the purchase by the Borrower of Qualifying ISA Assets in connection with which the Lender has previously made a Loan for the purchase of a Qualifying Participation Asset, thirty percent (30%) of the aggregate Face Value of such Assets to be purchased by the Borrower on the applicable Advance Date, or (iii) with respect to the purchase by the Borrower of Qualifying ISA Assets in connection with which the Lender has not previously made a Loan for the purchase of a Qualifying Participation Asset, sixty percent (60%) of the aggregate Face Value of such Assets to be purchased by the Borrower on the applicable Advance Date; provided that in no event shall the aggregate principal amount of all Loans outstanding exceed \$100,000,000.

**2.2 Manner and Disbursement of Loans.** The Borrower shall give written or telephonic notice to the Lender in the form of Exhibit D hereto (which notice shall be irrevocable once given) by no later than 11:00 a.m. (San Francisco time) two (2) Business Days prior to the date the Borrower requests the Lender to make an advance of a Loan hereunder (each such date, an “Advance Date”). Each such notice shall specify the date of the advance requested (which must be a Business Day) and the amount of such advance. The Borrower agrees that the Lender may rely upon any written notice in the form of Exhibit D given by any person the Lender in good faith believes is an Authorized Representative without the necessity of independent investigation. Subject to the provisions of Section 7 hereof and Lender’s acceptance of such Request, the proceeds of each advance shall be made available to the Borrower no later than 3:00p.m. (San Francisco time) on the advance date in immediately available funds by deposit to the Borrower’s primary operating account maintained with Zions Bancorporation, N.A. dba California Bank & Trust or as otherwise agreed upon by the Borrower and the Lender.

## 3. INTEREST AND PRINCIPAL PAYMENTS

**3.1 Interest Rate.** The outstanding principal balance of and the capitalized interest on each Loan shall bear interest from the Advance Date of such Loan at a rate equal to the greater of (i) twelve percent (12.00%) per annum and (ii) the lesser of (A) fifteen percent (15.00%) per annum and (B) LIBOR plus eight and three-quarters percent (8.75%) per annum; provided that during any period when the aggregate principal amount outstanding on all Loans is greater than \$30,000,000, each Loan shall bear interest at the Reduced Interest Rate. Accrued but unpaid interest shall be capitalized at the end of each calendar month.

**3.2 Computation of Interest.** All interest on the Loans shall be computed on the basis of a year of 360 days for the actual number of days elapsed.

**3.3 Interest Payments; Principal Payments.** Interest shall be payable in arrears on each Payment Date with respect to the Interest Period ending on the last day of the calendar month immediately prior to such Payment Date; provided that the Borrower shall make payments in accordance with the Priority of Payments. Principal shall be payable on each Payment Date in accordance with the Priority of Payments.

**3.4 Non-Performing ISA Cohorts.** All outstanding principal of and any accrued but unpaid interest on Loans in connection with each of the first three ISA Cohorts shall become immediately due and payable if such ISA Cohort becomes a Non-Performing ISA Cohort.

**3.5 Repurchase Payments.** If the Parent repurchases any Asset pursuant to Section 2.4 of the Asset Purchase Agreement or Section 2.4 of the Participation Agreement, the Repurchase Price shall be applied in accordance with Section 4.2(i) and shall not be subject to the Priority of Payments below.

**3.6 Priority of Payments.** On the Payment Date with respect to each Interest Period, collections with respect to any ISA Cohort from such Interest Period on deposit in the Lender Account shall be distributed in the following order of priority (the “*Priority of Payments*”):

(i) First, on a *pari passu* basis, to the Master Servicer, the Backup Servicer, the Verification Agent, and any other Agent, to pay the Agent Fees due in respect of the applicable Interest Period, allocated to such ISA Cohort in accordance with Section 4.1(iii), to the extent such amounts were not paid from the collections on such ISA Cohort prior to their deposit in the Lender Account;

(ii) Second, to the Lender, to pay any indemnity amounts payable to the Lender pursuant to Section 11.5; provided that indemnity amounts due on such Payment Date shall be allocated to each ISA Cohort on a pro rata basis based on the total collections received in respect of Assets in all ISA Cohorts;

(iii) Third, to the Lender, an amount sufficient to pay all outstanding principal and any accrued but unpaid interest with respect to Loans in connection with such ISA Cohort;

(iv) Fourth, to the Lender, an amount sufficient to pay all outstanding principal and any accrued but unpaid interest with respect to Loans in connection with any Non-Performing ISA Cohort; provided that if there are multiple Non-Performing ISA Cohorts, any such amounts shall be applied to such ISA Cohorts in the order in which such ISA Cohorts were originated;

(v) Fifth, during a Cash Trap Event, to the Lender, an amount sufficient to pay all outstanding principal and any accrued but unpaid interest with respect to all Loans in connection with all other ISA Cohorts, regardless of whether such ISA Cohort is a Non-Performing ISA Cohort; provided that any such amounts shall be applied to such other ISA Cohorts in the order in which such ISA Cohorts were originated;

(vi) Sixth, provided no Cash Trap Event is ongoing, to the Borrower, all remaining amounts.

#### **4. FEES, PREPAYMENTS, AND APPLICATIONS**

##### **4.1 Fees.**

(i) **Legal Expenses.** All fees in connection with the preparation of the Loan Documents to be executed on the A&R Closing Date, including without limitation Lender’s legal expenses, shall be paid by the Original Parent. The Parent shall pay all fees in connection with the preparation of any modifications or amendments of, or any waivers in connection with, the Loan Documents.

(ii) **Agent Fees.** The Borrower shall pay the Agent Fees, which shall be distributed in accordance with the Priority of Payments. On each Payment Date, Agent Fees due on such Payment Date shall be allocated to each ISA Cohort on a pro rata basis based on the total collections received in respect of Assets in all ISA Cohorts. The Parent shall pay any Agent Fees payable to the Backup Servicer and the Verification Agent to the extent that amounts on deposit in the Lender Account on any Payment Date are insufficient to pay such Agent Fees.

(iii) Default Rate. Upon the occurrence and during the continuance of an Event of Default, the Borrower shall pay to the Lender on demand a default interest rate in addition to the interest specified in Section 3.1 above, which shall equal two percent (2.00%) per annum on any outstanding principal balance of the Loans.

#### **4.2** Prepayments.

(i) Mandatory. In connection with any repurchase of Assets by the Parent pursuant to Section 2.4 of the Asset Purchase Agreement or Section 2.4 of the Participation Agreement, the Borrower shall, promptly (and in any event within three (3) Business Days) and without notice, pay over to the Lender the Repurchase Price in connection with any Repurchased Assets. The Repurchase Deficit with respect to any Repurchased Asset shall be credited against the amount due to the Lender in respect of the applicable ISA Cohort on the following Payment Date.

(ii) Voluntary. The Borrower may not prepay the Loans either in whole or in part other than as contemplated in Section 4.2(i) without the consent of the Lender.

**4.3** Place and Application of Payments. All Obligations payable under the Loan Documents shall be made by wire transfer of immediately available funds to the Lender Account no later than 11:00 a.m. (San Francisco time) on the date any such payment is due and payable. Payments received by the Lender after 11:00 a.m. (San Francisco time) shall be deemed received as of the opening of business on the next Business Day. Following the end of each Interest Period, within ten (10) Business Days of receipt by the Lender of accurate and complete information from the Master Servicer sufficient to make such calculations, the Lender shall calculate the Priority of Payments for each ISA Cohort with respect to such Interest Period and shall deliver a written notice of such Priority of Payments to the Borrower setting forth such calculations. All such payments shall be made without set-off or counterclaim and without reduction for, and free from, any and all present or future taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions, and conditions of any nature imposed by any government or any political subdivision or taxing authority thereof. If the collections with respect to any ISA Cohort on deposit in the Lender Account are not sufficient to pay all principal and interest due with respect to all Loans in any applicable ISA Cohort as required pursuant to Sections 3.6(iii), (iv) or (v), such amounts shall be applied first to the most recently made Loan and then to each prior Loan in inverse order of the making thereof.

**4.4** Notations. The Loans made pursuant to this Agreement shall be recorded by the Lender on its books and records or, at its option in any instance, endorsed on a schedule to this Agreement and the unpaid principal balance and status and rates so recorded or endorsed by the Lender shall be prima facie evidence in any court or other proceeding brought to enforce the Loans of the principal amount remaining unpaid thereon, the status of the Loans evidenced thereby and the interest rates applicable thereto; provided that the failure of the Lender to record any of the foregoing shall not limit or otherwise affect the obligation of the Borrower to repay the principal amount of the Loans together with accrued interest, fees or other Obligations thereon.

### **5.** COLLATERAL AND GUARANTIES

**5.1** Collateral. The Obligations shall be secured by valid, perfected, and enforceable Liens on all right, title, and interest of the Borrower in all assets of the Borrower (including, without limitation, the Borrower Portfolio, the Borrower Account and the Collection Account), whether now owned or hereafter acquired or arising, and all proceeds thereof and all proceeds of the foregoing. The Borrower acknowledges and agrees that, upon the filing of any necessary UCC financing statements, which shall be filed by the Borrower within one Business Day following the date hereof, the Liens on the Collateral shall be valid and

perfected first-priority Liens, in each case pursuant to one or more Collateral Documents in form and substance satisfactory to the Lender.

**5.2 Collateral Accounts.** The Borrower shall ensure that all collections in respect of the Assets are paid directly into the Collection Account unless otherwise agreed to by the Lender. The Borrower shall, upon receipt, deposit (and hereby agrees to deposit) in the Borrower Account any payments and monies that the Borrower receives that are relating to any Property of the Borrower other than the Assets. The Borrower hereby acknowledges and agrees that (i) each of the Collection Account and the Borrower Account shall be collaterally assigned to the Lender pursuant to the Security Agreement, (ii) the Lender's consent shall be required in connection with any withdrawals from the Collection Account, (iii) all amounts on deposit in the Collection Account shall be transferred to the Lender Account on a weekly basis, and (iv) the Lender shall be granted the right to control the Borrower Account and the Collection Account following the occurrence of an Event of Default pursuant to the Deposit Account Control Agreements.

**5.3 Guaranty.** The payment and performance of the Obligations shall at all times be guaranteed by the Guarantor pursuant to a limited New York law governed guaranty agreement in form and substance acceptable to the Lender and Guarantor, as the same may be amended, modified, supplemented or restated from time to time (the "*Guaranty*").

**5.4 Further Assurances.** The Borrower agrees that it shall execute and deliver such documents and do such acts and things as the Lender may from time to time reasonably request in order to create, perfect or protect the Lender's Lien on the Collateral.

## **6. REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Lender as follows:

**6.1 Organization and Qualification.** The Borrower (a) is duly organized or formed, validly existing and, as applicable, in good standing under the Laws of the jurisdiction of its formation or organization, (b) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) execute, deliver and perform its obligations under the Loan Documents to which it is a party, and (c) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license, except, in each case referred to in clause (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.

**6.2 Authority and Validity of Obligations.** The execution, delivery and performance by the Borrower of each Loan Document to which it is party have been duly authorized by all necessary corporate or other organizational action, and do not and will not (i) conflict with, result in any breach of any of the terms and provisions of, or constitute (with or without notice or lapse of time or both) a default under, (A) the organizational documents of Borrower, (B) any indenture, loan agreement, pooling and servicing agreement, receivables purchase agreement, mortgage, deed of trust, or other material agreement or instrument to which Borrower is a party or by which it or any of its properties is bound or (C) the documents pursuant to which the Assets were originated by Kenzie Group (or Original Parent, as applicable), (ii) result in or require the creation or imposition of any Liens upon the Collateral pursuant to the terms of any indenture, loan agreement, pooling and servicing agreement, receivables purchase agreement, mortgage, deed of trust, or other agreement or instrument referenced in clause (i)(B) of this Section, other than pursuant to the terms of the Loan Documents, or (iii) violate any law or any order, rule, or regulation applicable to Borrower or of any court or of any federal, state or foreign regulatory body, administrative agency, or other governmental instrumentality having jurisdiction over Borrower or any of its properties.

**6.3**     Execution and Delivery; Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by the Borrower. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other Laws affecting creditors' rights generally and by general principles of equity.

**6.4**     Use of Proceeds; Margin Stock. No proceeds of any sale hereunder shall be used by Borrower (i) to acquire any security in any transaction which is subject to Section 13 or 14 of the Exchange Act, (ii) to acquire any equity security of a class which is registered pursuant to Section 12 of the Exchange Act, or (iii) for any other purpose that violates applicable Laws, including Regulation T, U or X of the Federal Reserve Board. The Borrower is not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying Margin Stock, or extending credit for the purpose of purchasing or carrying Margin Stock, and no part of the proceeds of any Loan hereunder will be used to buy or carry any Margin Stock. Following the application of the proceeds of each Loan, not more than 25% of the value of the assets (either of the Borrower only or of the Borrower and its Affiliates) will be Margin Stock.

**6.5**     Financial Statements. The Borrower's financial statements were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and fairly present in all material respects the financial condition of the Borrower as of the date thereof and their results of operations and cash flows for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.

**6.6**     No Material Adverse Change. Since June 30, 2020, there has been no change in the condition (financial or otherwise) of the Borrower or the Guarantor, except those occurring in the ordinary course of business, none of which individually or in the aggregate has had or could reasonably be expected to have a Material Adverse Effect.

**6.7**     No Proceedings. There is no order, judgment, decree, injunction, stipulation or consent order of or with any Governmental Authority to which Borrower is subject, and there is no action, suit, arbitration, regulatory proceeding or investigation pending, or, to the knowledge of the Borrower, threatened, before or by any court, regulatory body, administrative agency or other tribunal or governmental instrumentality, against Borrower that, individually or in the aggregate, has had, or, in the sole discretion of the Lender, could reasonably be expected to have, a Material Adverse Effect on any Asset in the Borrower Portfolio; and there is no action, suit, proceeding, arbitration, regulatory or governmental investigation, pending or, to the knowledge of the Borrower, threatened, before or by any court, regulatory body, administrative agency, or other tribunal or governmental instrumentality (i) asserting the invalidity of this Agreement or any other Loan Document, or (ii) seeking to prevent the consummation of the transactions contemplated by this Agreement or any other Loan Document.

**6.8**     No Material Adverse Effect; No Default. The Borrower is not in default under or with respect to any contractual obligation that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. No Default has occurred and is continuing or would result from the consummation of the transactions contemplated by this Agreement or any other Loan Document.

**6.9**     Quality of Title. Borrower is the sole legal and beneficial owner of all Assets in the Borrower Portfolio, free and clear of all Adverse Claims (other than the Liens created under the Loan Documents in favor of Lender), shall have good and marketable title thereto, and shall have the right to grant Lender a security interest in all such Assets free and clear of any Lien (other than the Liens created

under the Loan Documents in favor of the Lender). Borrower shall not have sold, assigned or otherwise transferred any right or interest in or to such Assets and shall not have pledged such Assets as collateral for any debt or other purpose, except as contemplated under the Loan Documents.

**6.10 Taxes.** The Borrower has filed all federal, state and other tax returns and reports required to be filed, and have paid all federal, state and other taxes, assessments, fees and other governmental charges levied or imposed upon them or their properties, income or assets otherwise due and payable, except (a) taxes that are being contested in good faith by appropriate proceedings diligently conducted and for which adequate reserves are being maintained in accordance with GAAP or (b) to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

**6.11 Disclosure.** The Borrower has disclosed to the Lender all agreements, instruments and corporate or other restrictions to which the Borrower or any of its Affiliates is subject, and all other matters known to it, that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. The reports, financial statements, certificates and other written information (other than projected or pro forma financial information) furnished by or on behalf of the Borrower to any Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder or under any other Loan Document (as modified or supplemented by other information so furnished), taken as a whole, do not contain any material misstatement of fact or omit to state any material fact necessary to make the statements therein (when taken as a whole), in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected or pro forma financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time of preparation and delivery (it being understood that (i) any projected information is merely a prediction as to future events and is not to be viewed as fact, (ii) any projected information is subject to significant uncertainties and contingencies, many of which are beyond the control of the Borrower and the Parent, (iii) no assurance can be given that any particular projected information will be realized and (iv) such projected information may vary from actual results and that such variances may be material).

**6.12 Compliance with Laws.** The Borrower (i) is in compliance with the requirements of all Laws (including Environmental Laws) and all orders, writs, injunctions and decrees applicable to it or to its properties, except in such instances in which the failure to so comply, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, (ii) has obtained any and all material licenses, permits, franchises or other governmental authorizations necessary to the origination and ownership of Assets in the Borrower Portfolio, and (iii) has complied with all material license requirements in each state in which it is required to be specifically registered or licensed as an originator or owner of such Assets.

**6.13 ERISA Compliance.**

(i) Except as could not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect, (i) each Plan is in compliance with the applicable provisions of ERISA, the Code and other federal or state Laws and (ii) each Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter from the IRS to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the IRS to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the IRS, and, to the knowledge of the Borrower, nothing has occurred that would prevent or cause the loss of such tax-qualified status.

(ii) There are no pending or, to the knowledge of the Borrower, threatened or contemplated claims, actions or lawsuits, or action by any Governmental Authority, with respect to any

Plan that, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that, either individually or in the aggregate, has had or could reasonably be expected to have a Material Adverse Effect.

(iii) No ERISA Event has occurred, and neither the Borrower nor any ERISA Affiliate is aware of any fact, event or circumstance that, either individually or in the aggregate, could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan that, either individually or in the aggregate, has had or could reasonably be expected to have a Material Adverse Effect.

(iv) The present value of all accrued benefits under each Pension Plan (based on those assumptions used to fund such Pension Plan) did not, as of the last annual valuation date prior to the date on which this representation is made or deemed made, exceed the value of the assets of such Pension Plan allocable to such accrued benefits by a material amount. As of the most recent valuation date for each Multiemployer Plan, the potential liability of the Borrower or any ERISA Affiliate for a complete withdrawal from such Multiemployer Plan (within the meaning of Section 4203 or Section 4205 of ERISA), when aggregated with such potential liability for a complete withdrawal from all Multiemployer Plans, is zero.

(v) To the extent applicable, each Foreign Plan has been maintained in compliance with its terms and with the requirements of any and all applicable requirements of Law and has been maintained, where required, in good standing with applicable regulatory authorities, except to the extent that the failure so to comply could not reasonably be expected, either individually or in the aggregate, to have a Material Adverse Effect. Neither the Borrower nor any Affiliate has incurred any material obligation in connection with the termination of or withdrawal from any Foreign Plan. The present value of the accrued benefit liabilities (whether or not vested) under each Foreign Plan that is funded, determined as of the end of the most recently ended fiscal year of the Borrower or Affiliate, as applicable, on the basis of actuarial assumptions, each of which is reasonable, did not exceed the current value of the property of such Foreign Plan by a material amount, and for each Foreign Plan that is not funded, the obligations of such Foreign Plan are properly accrued.

**6.14 Environmental Matters.** Except with respect to any matters that, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, the Borrower (a) has not failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (b) does not know of any basis for any permit, license or other approval required under any Environmental Law to be revoked, canceled, limited, terminated, modified, appealed or otherwise challenged, (c) has not nor could reasonably be expected to become subject to any Environmental Liability, (d) has not received written notice of any claim, complaint, proceeding, investigation or inquiry with respect to any Environmental Liability (and no such claim, complaint, proceeding, investigation or inquiry is pending or, to the knowledge of the Borrower, is threatened in writing or contemplated) or (e) does not know of any facts, events or circumstances that could give rise to any basis for any Environmental Liability of the Borrower.

**6.15 Investment Company Act.** Neither the Borrower nor the Guarantor is an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940.

**6.16 Sanctions; Anti-Corruption.**

(i) None of the Borrower, the Parent, any of their Affiliates or any director, officer, employee, agent, or affiliate of the Borrower, the Parent or any of their Affiliates is an individual or entity that is, or is owned or controlled by persons that are: (i) the subject of any sanctions administered or

enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury, or other relevant sanctions authority (collectively, "Sanctions"), or (ii) located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions (including Crimea, Cuba, Iran, North Korea and Syria ).

(ii) None of the Borrower, the Parent, their Affiliates and their respective directors, officers and employees and the agents of the Borrower, the Parent, and their Affiliates (i) has violated, been found in violation of, or been charged or convicted under, any applicable U.S. Economic Sanctions Laws, Anti-Money Laundering Laws or Anti-Corruption Laws or (ii) to Kenzie Group's knowledge, is under investigation by any Governmental Authority for possible violation of any U.S. Economic Sanctions Laws, Anti-Money Laundering Laws or Anti-Corruption Laws.

(iii) No part of the proceeds from the Loans hereunder:

(a) constitutes or will constitute funds obtained on behalf of any Person that is the subject of any Sanctions or is located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions (including Crimea, Cuba, Iran, North Korea and Syria) or will otherwise be used (A) in connection with any investment in or transactions or dealings with such a Person, (B) for any purpose that would cause Lender to be in violation of any U.S. Economic Sanctions Laws or (C) otherwise in violation of U.S. Economic Sanctions Laws;

(b) will be used by Borrower, the Parent, any of their Affiliates or any director, officer, employee, agent, or affiliate of the Borrower, the Parent or any of their Affiliates, directly or indirectly, in violation of, or cause Lender to be in violation of, any applicable Anti-Money Laundering Laws; or

(c) will be used, directly or indirectly, for the purpose of making any improper payments, including bribes, to any governmental official or commercial counterparty in order to obtain, retain or direct business or obtain any improper advantage, in each case which would be in violation of, or cause Lender to be in violation of, any applicable anti-corruption laws.

(iv) Kenzie Group has established and maintains procedures and controls which it reasonably believes are adequate (and otherwise comply with applicable Laws) to ensure that Kenzie Group is and will continue to be in compliance with all applicable U.S. Economic Sanctions Laws, Anti-Money Laundering Laws and Anti-Corruption Laws.

**6.17 Solvency.** The Borrower is now able, and expects in the future to be able, to pay its ongoing business expenses, liabilities and debts as such expenses, liabilities and debts mature at the time of each Loan. The sum of Borrower's property at fair valuation is and will be greater than all of Borrower's debts and liabilities at the time of each Loan and Borrower is and will be generally able to pay its debts as they become due.

**6.18 Assets.** Each Asset in the Borrower Portfolio:

(i) was originated in the ordinary course of business of the Parent or the Original Parent;

(ii) has not been sold by the Borrower, Original Parent or Kenzie Group to any person other than the Borrower;



(iii) is free and clear of all Liens, other than Liens created pursuant to the Loan Documents;

(iv) was not and is not subject to bad faith or adverse selection on the part of the Borrower, Original Parent or Kenzie Group; and

(v) complies with applicable Laws in all material respects.

## **7. CONDITIONS PRECEDENT**

The obligation of the Lender to make Loans under this Agreement is subject to the satisfaction of the following conditions precedent (or the waiver thereof by the Lender):

### **7.1 All Loans.** As of the time of the making of any extension of credit hereunder:

(i) each of the representations and warranties set forth in Section 6 hereof and in the other Loan Documents shall be true and correct as of such time, except to the extent the same expressly relate to an earlier date;

(ii) there shall be no change in facts or circumstances since the Initial Closing Date relevant to the opinions given in respect of true sale and non-consolidation matters on the Initial Closing Date that could reasonably be expected to have a Material Adverse Effect;

(iii) Borrower and Guarantor shall have performed and observed all of its obligations, covenants and agreements that are required to be performed hereunder and under the other Loan Documents as of the Advance Date of such Loan; and

(iv) no Default or Event of Default shall have occurred and be continuing or would occur as a result of making such extension of credit.

The Borrower's request for any extension of credit hereunder shall constitute its warranty as to the facts specified in subsections (i) through (iv) above.

### **7.2 Effectiveness.** At or prior to the effectiveness of this Agreement, the following conditions precedent shall have been satisfied (or waived by the Lender):

(i) the Lender shall have received the following (and, with respect to all documents, each to be properly executed and completed) and the same shall have been approved as to form and substance by the Lender:

(a) this Agreement duly executed by the Borrower and the Security Agreement duly executed by the Borrower, together with any financing statements reasonably requested by the Lender;

(b) each other Loan Document duly executed by the Borrower and the Guarantor, as applicable;

(c) copies (executed or certified as may be appropriate) of resolutions of the Guarantor authorizing the execution, delivery, and performance of the Loan Documents by the Guarantor; and

(d) copies of the certificates of incorporation or formation (or equivalent organizational document) of the Guarantor certified by the appropriate governmental office of the state of its organization;

(e) an incumbency certificate containing the name, title and genuine signature of the Guarantor's authorized representatives;

(f) copies of good standing certificates for the Guarantor, dated as of a date no earlier than five days prior to the date hereof, from the appropriate governmental offices in the state of its incorporation or organization and in each state in which it is qualified to do business as a foreign organization;

(g) a duly completed Internal Revenue Service Form W-9 for the Guarantor;

(h) copies of the operating agreement, bylaws or limited partnership agreement (or equivalent organizational document) for the Guarantor certified by an appropriate officer of the Guarantor acceptable to the Lender; and

(i) opinions of counsel to the Borrower and Guarantor with respect to such matters as the Lender may reasonably request (including opinions with respect to the due authorization, execution and delivery of, and enforceability of this Agreement and the other Loan Documents executed on the A&R Closing Date).

(ii) Kenzie Academy, Inc. shall have paid all fees in connection with the preparation of the Loan Documents to be executed on the A&R Closing Date, including without limitation Lender's legal expenses;

(iii) legal matters incident to the execution and delivery of the Loan Documents and to the transactions contemplated hereby shall be satisfactory to the Lender and its counsel;

(iv) the Liens granted to the Lender under the Collateral Documents shall have been perfected in a manner satisfactory to the Lender and its counsel; and

(v) the Lender shall have received such other agreements, instruments, documents, certificates and opinions as the Lender may reasonably request.

## **8. COVENANTS**

**8.1 Affirmative Covenants.** The Borrower agrees that, so long as any credit is available to or in use by the Borrower hereunder, except to the extent compliance in any case or cases is waived in writing by the Lender:

(i) **Financial Statements.**

(a) As promptly as possible after the close of each fiscal year of the Borrower and the Guarantor, each of the Borrower and the Guarantor shall cause an audit of its financial statements as of the end of each such year to be made in accordance with generally accepted auditing standards by a regionally recognized firm of certified public accountants. The Borrower and the Guarantor will provide within one hundred twenty (120) days after the end of each such fiscal year, a copy of the report of such independent certified public accountants to the Lender which shall include, as of the end of such fiscal year, in accordance with GAAP, (i) the assets and

liabilities of the Borrower or Guarantor, as applicable; (ii) the Net Income or Net Loss of the Borrower or Guarantor, as applicable; (iii) the changes in cash flow of the Borrower or Guarantor, as applicable; and (iv) the revenue and expense statements of the Guarantor, as applicable, each determined in accordance with principles generally accepted by the accounting profession in the United States at such time. This audit shall be completed and the report provided to Lender at no cost to the Lender; and

(b) No later than forty-five (45) days after the end of each fiscal quarter of the Guarantor, the Guarantor shall deliver to the Lender interim financial statements of the Guarantor which shall demonstrate, to the extent that it is reasonably possible, that the Guarantor is being operated in accordance with its budgets. Such interim financial statements will not be required to be audited and may be prepared by the staff of the Guarantor.

(c) Each of the Borrower and the Guarantor shall make its financial statements available to the Lender in the form and frequency reasonably requested by the Lender, and at least on a quarterly basis.

(ii) Certificates; Other Information. The Borrower will deliver to the Lender:

(a) concurrently with the delivery of the quarterly financial statements referred to in Section 8.1(i)(b), a duly completed certificate signed by an Authorized Representative of the Guarantor (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto and (ii) setting forth reasonably detailed calculations demonstrating compliance with Section 8.2(xi);

(b) promptly following any request therefor, such other information regarding the operations, business, properties, liabilities (actual or contingent), condition (financial or otherwise) or prospects of the Borrower, or compliance with the terms of the Loan Documents, as the Lender may from time to time reasonably request.

(c) For the avoidance of doubt, documents required to be delivered pursuant to Section 8.1(i) or Section 8.1(ii) may be delivered electronically.

(iii) Notices. The Borrower will promptly (and in any event within five (5) Business Days after its knowledge of the same) notify the Lender of:

(a) the occurrence of any Default;

(b) the filing or commencement of any action, suit, investigation or proceeding by or before any arbitrator or Governmental Authority against or affecting the Borrower, including pursuant to any applicable Environmental Laws, that, if adversely determined, could reasonably be expected to have a Material Adverse Effect;

(c) the occurrence of any ERISA Event that, either individually or together with any other ERISA Events, could reasonably be expected to have a Material Adverse Effect;

(d) notice of any action arising under any Environmental Law or of any noncompliance by the Borrower with any Environmental Law or any permit, approval, license or other authorization required thereunder that, if adversely determined, could reasonably be expected to have a Material Adverse Effect;

(e) any material change in accounting or financial reporting practices by the Borrower or the Guarantor;

(f) any matter or development that has had or could reasonably be expected to have a Material Adverse Effect; and

(g) each notice delivered under this Section shall be accompanied by a statement of an Authorized Representative of the Borrower setting forth the details of the occurrence requiring such notice and stating what action the Borrower has taken and proposes to take with respect thereto.

(iv) Preservation of Existence, Etc. The Borrower will (a) preserve, renew and maintain in full force and effect its legal existence and good standing under the Laws of the jurisdiction of its organization; (b) take all reasonable action to maintain all rights, licenses, permits, privileges and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.

(v) Maintenance of Properties. The Borrower will (a) maintain, preserve and protect all of its properties and equipment necessary in the operation of its business in good working order and condition (ordinary wear and tear excepted) and (b) make all necessary repairs thereto and renewals and replacements thereof, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(vi) Maintenance of Insurance. The Borrower will maintain with insurance companies reasonably believed to be financially sound and reputable, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by Persons engaged in the same or similar business, of such types and in such amounts (after giving effect to any self-insurance reasonable and customary for similarly situated Persons engaged in the same or similar businesses as the Borrower) as are customarily carried under similar circumstances by such Persons.

(vii) Payment of Obligations. The Borrower will pay, discharge or otherwise satisfy as the same shall become due and payable, all of its obligations and liabilities, including tax liabilities, unless the same are being contested in good faith by appropriate proceedings diligently conducted and adequate reserves in accordance with GAAP are being maintained by the Borrower, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(viii) Compliance with Laws. The Borrower will comply with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its business or property, except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect.

(ix) Compliance with Underlying ISA Documents. The Borrower will comply with the requirements applicable to it under the Underlying ISA Documents and all other agreements related to the Assets in the Borrower Portfolio.

(x) Environmental Matters. Except to the extent that the failure to do so could not reasonably be expected to have a Material Adverse Effect, the Borrower will (a) comply with all Environmental Laws, (b) obtain, maintain in full force and effect and comply with any permits, licenses or approvals required for the facilities or operations of the Borrower, and (c) conduct and complete any investigation, study, sampling or testing, and undertake any corrective, cleanup, removal, response,

remedial or other action necessary to identify, report, remove and clean up all Hazardous Materials present or released at, on, in, under or from any of the facilities or real properties of the Borrower.

(xi) Books and Records.

(a) The Borrower will maintain proper books of record and account, in which full, true and correct entries in conformity with GAAP consistently applied shall be made of all financial transactions and matters involving the assets and business of the Borrower.

(b) The Borrower shall keep and maintain at or accessible from its principal place of business a complete set of files, books, and records regarding payments made under Assets in the Borrower Portfolio, and to allow the Lender, at its cost, to inspect, audit, and make copies and extracts of the same. Any such files, with respect to any such Asset, shall be maintained by the Borrower for at least seven years after the earlier of the payment in full of such Asset or the termination of the Borrower's servicing obligation for such Asset, and may be inspected by the Lender on a Business Day during normal business hours upon not less than two (2) Business Days' prior notice.

(c) The Borrower understands and acknowledges that from time to time the Lender or the Lender's Affiliates may be subject to examination by various federal government agencies with authority over the Lender or its Affiliates. As to any examination authority, the Borrower agrees to reasonably cooperate with any legitimate examination or inquiry by any such government agencies exercising proper regulatory authority over the Lender or its Affiliates, including compliance by the Lender with its obligations to those regulatory authorities. The Borrower further acknowledges that as a result of examination authority of federal government agencies, the Lender may be required to engage in ongoing oversight of certain elements of its relationship with the Borrower, including reviewing the Borrower's compliance with applicable Laws. With respect to audits and examinations related to this Agreement to be performed on the Borrower by a government agency with authority over the Lender or any of its Affiliates, the Lender shall provide the Borrower with reasonable prior written notice.

(xii) Inspection Rights. The Borrower will permit representatives of the Lender to visit and inspect any of its properties, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the reasonable expense of the Borrower and at such reasonable times during normal business hours and as often as may be reasonably requested; provided that, other than with respect to such visits and inspections during the continuation of an Event of Default, the Lender shall not exercise such rights more often than two times during any calendar year; provided, further, that when an Event of Default exists the Lender (or any of its representatives) may do any of the foregoing under this Section at the expense of the Borrower and at any time during normal business hours and without advance notice. During the term of this Agreement, the Lender, at its own expense, may hire an independent third party to review and audit each of the Borrower's and the Guarantor's performance of its obligations under this Agreement and the other Loan Documents. Such third-party review shall comply with the confidentiality provisions in Section 11.16.

(xiii) Reporting.

(a) The Borrower shall deliver to the Lender, within two (2) Business Days after each Loan is made, a certificate listing all Assets in the Borrower Portfolio (including a unique origination ID with respect to each Asset). The Borrower shall work with the Lender to resolve any inquiries or inconsistencies with respect to the list of Assets delivered.

(b) The Borrower shall provide to the Lender on no less than a monthly basis detailed origination and payment information, in a form satisfactory to the Lender, concerning (i) all Assets in the Borrower Portfolio, including but not limited to the information listed under Monthly Payment Reports in Schedule 2 hereto, (ii) all Assets that Kenzie Group or the Original Parent has originated or purchased prior to the A&R Closing Date and all Qualifying Assets that Kenzie Group has originated or purchased on or following the A&R Closing Date, and (iii) any other information that the Lender, in its commercially reasonable discretion, determines to be relevant with respect to the Borrower Portfolio; provided that, with respect to the information provided regarding any Asset, the Borrower shall comply with applicable regulations restricting personally identifiable information. Such information shall include, but is not limited to, the information listed under Monthly Reports in Schedule 2 hereto, and shall identify each Asset by such Asset's unique origination ID. The Borrower shall work with the Lender to resolve any inquiries or inconsistencies with respect to reports delivered and shall reimburse the Lender for any reasonable and documented third-party costs of Lender in connection with resolving any material (in amount or in number) inconsistencies or errors in such reporting.

(c) The Borrower shall provide to the Lender on no less than a monthly basis, a report containing detailed information in a form satisfactory to the Lender confirming the Borrower's compliance with the covenants set forth in Section 8.2(xi).

(d) The Borrower shall provide to the Lender on no less than a monthly basis information regarding enrollment and outcome of students of Eligible Programs, including the information listed under Monthly Kenzie Student Reports in Schedule 2 hereto.

(e) Upon reasonable advance written notice, the Borrower shall permit the Lender to examine, on a quarterly basis (a) the books and records of the Borrower including all documentation and financial reporting relating to the Assets originated or purchased by Kenzie Group (whether for the purpose of assigning to the Borrower or other third party or affiliate) and (b) all underwriting, performance, payment, collection and other financial and demographic information obtained and managed by Kenzie Group in connection with the origination, managing and servicing of such Assets.

(xiv) Use of Proceeds. The Borrower will use the proceeds of the Loans solely to purchase Qualifying Assets from the Parent.

(xv) Sanctions; Anti-Corruption Laws. The Borrower will maintain in effect policies and procedures designed to promote compliance by the Borrower and its directors, officers, employees, and agents with applicable Sanctions and with the FCPA and any other applicable anti-corruption laws.

(xvi) Maintenance of Accounts. The Borrower shall at all times maintain Zions Bancorporation, N.A. dba California Bank & Trust as its depositary bank for the maintenance of all deposit accounts, including without limitation the Collection Account and the Borrower Account. All accounts of the Borrower shall at all times be subject to an account control agreement in favor of the Lender, as secured party.

(xvii) Master Servicer; Subservicer; Backup Servicer; Verification Agent. Following the occurrence of any Servicer Event of Default under the Servicing Agreement, or any Event of Default hereunder, the Borrower shall, at the direction of the Lender, remove the Master Servicer in accordance with the terms of the Servicing Agreement. To the extent the Master Servicer appoints a subservicer, the Borrower and the Master Servicer shall at all times have in place a conditional assignment agreement with respect to the subservicing agreement, in a form reasonably satisfactory to the Lender. The Borrower and

the Parent shall cause the Subservicer to maintain all licenses, including any collection agency licenses, required in any states in which ISA Obligors of Assets originated by the Parent reside. At any time that the Master Servicer shall act through a subservicer, if the Lender shall so direct the Borrower, the Borrower shall direct the Master Servicer to terminate such subservicer pursuant to Section 5(d) of the Servicing Agreement. The Borrower and the Master Servicer shall at all times maintain a backup servicer reasonably satisfactory to the Lender and shall store with such backup servicer copies of all servicing files with respect to the Assets and all information necessary to allow a replacement servicer to commence servicing of the Assets. The Lender, the Borrower and the Master Servicer shall at all times maintain a verification agent reasonably satisfactory to the Lender.

(xviii) Documents. The Borrower shall deliver to the Lender any material amendment, modification or waiver to the Borrower's organizational documents.

**8.2** Negative Covenants. The Borrower agrees that, so long as any credit is available to or in use by the Borrower hereunder, except to the extent compliance in any case or cases is waived in writing by the Lender:

(i) Indebtedness. The Borrower will not create, incur, assume or suffer to exist any Indebtedness, other than Indebtedness under the Loan Documents;

(ii) Liens. The Borrower will not create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than Liens in respect of the Indebtedness under the Loan Documents.

(iii) Fundamental Changes. The Borrower will not merge, dissolve, liquidate, consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired) to or in favor of any Person, except that, so long as no Default exists or would result therefrom:

(a) the Borrower may make Dispositions permitted by Section 8.2(iv); and

(b) any Investment permitted by Section 8.2(vi) may be structured as a merger, consolidation or amalgamation.

(iv) Dispositions. The Borrower will not make any Disposition or enter into any agreement to make any Disposition, except in connection with the Parent's repurchase obligations under the Asset Purchase Agreement or the Participation Agreement, or with the prior written consent of the Borrower.

(v) Restricted Payments. The Borrower will not declare or make, directly or indirectly, any payments from the Collection Account, or incur any obligation (contingent or otherwise) to do so without the prior written consent of the Lender.

(vi) Transactions with Affiliates. The Borrower will not enter into any transaction of any kind with any Affiliate of the Borrower, whether or not in the ordinary course of business, other than (i) pursuant to the Loan Documents or (ii) on fair and reasonable terms substantially as favorable to the Borrower as would be obtainable by the Borrower at the time in a comparable arm's-length transaction with a Person other than an Affiliate.

(vii) Subsidiaries. The Borrower shall not form or acquire any Subsidiaries.

(viii) Changes in Nature of Business. The Borrower will not engage to any material extent in any business other than those businesses conducted by the Borrower on the date hereof or any business reasonably related or incidental thereto or representing a reasonable expansion thereof. The Borrower shall not amend or otherwise modify or waive any term or condition of its formation documents in any manner that the Lender reasonably expects to result in a Material Adverse Effect on any Asset in the Borrower Portfolio, without the prior written consent of the Lender.

(ix) Underwriting Policies; Income Share Agreements. The Borrower shall not, and shall cause the Parent not to, (i) amend, waive or otherwise modify any term or condition of the Underwriting Policy in any manner that Lender would reasonably expect to result in an Material Adverse Effect on any Asset in the Borrower Portfolio, except with the prior written consent of the Lender, or (ii) amend, waive or otherwise modify any term or condition of the Underwriting Policy without giving prior written notice to the Lender. The Borrower shall not, and shall cause the Parent not to, amend, waive or otherwise modify any term or condition of any Income Share Agreement in connection with a Borrower Asset, except with the prior written consent of the Lender.

(x) Sanctions; Anti-Corruption Use of Proceeds. The Borrower will not, directly or indirectly, use the proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other Person, (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of the FCPA or any other applicable anti-corruption law, or (ii) (A) to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the subject of Sanctions, or (B) in any other manner that would result in a violation of Sanctions by any Person (including any Person participating in the Loans, whether as administrative agent, arranger, issuing bank, lender, underwriter, advisor, investor, or otherwise).

(xi) Financial Covenants.

(a) The Long-Term Debt Service Coverage Ratio of the Parent shall not be less than 1.25 to 1.00 as of (i) the end of any fiscal year of the Parent (based on audited financial statements) or (ii) December 31 of any year (based on unaudited financial statements), in each cash based on a trailing twelve-month period. “Long-Term Debt Service Coverage Ratio” shall have the meaning given to such term in the portion of the SNHU Loan Agreement provided to the Lender as of the A&R Closing Date.

(b) The Liquidity Ratio of the Parent shall not be less than twenty five percent (25%) as of June 30 or December 31 of any year. “Liquidity Ratio” means (a) Unrestricted Net Assets minus net Property, Plant and Equipment (including the addition of unexpended construction funds) plus Long-Term Indebtedness divided by (b) Long-Term Indebtedness. Each capitalized term used within the definition of Liquidity Ratio shall have the meaning given to such term in the portion of the SNHU Loan Agreement provided to the Lender as of the A&R Closing Date.

**8.3** Parent Covenants.

(i) The Parent shall not, and shall not permit any of its subsidiaries or Affiliates to, prior to the first date on which the principal amount outstanding of all Loans exceeds \$60,000,000, originate any Qualifying Assets other than those sold or to be sold to the Borrower. Notwithstanding the foregoing, if at any time the Lender does not make any Loan within 30 days of the requested Advance Date following receipt of a request pursuant to Section 2.2 and satisfaction of all conditions in Section 7.1 as of the applicable Advance Date, the Parent may, within 30 days of the Lender’s failure to make such Loan, while



such Loan remains unfunded by the Lender, notify the Lender that this Section 8.3(i) shall no longer be in effect, after which time the Parent may, and may permit its subsidiaries and Affiliates to, originate Qualifying Assets which are not sold to the Borrower.

(ii) Following the first date on which the principal amount outstanding of all Loans exceeds \$60,000,000, (i) the Parent shall ensure that Qualifying Assets are allocated between the Borrower and any other purchasers in accordance with an allocation methodology approved by the Lender to prevent adverse selection and (ii) the Lender shall have a right of first refusal to finance Qualifying Assets.

(iii) The Parent shall, and shall cause the Borrower to, provide the Lender with access to all reporting and records reasonably necessary to satisfy the requirements of this Agreement.

(iv) The Parent agrees that, so long as any Loans are outstanding, unless the Lender otherwise agrees in writing, the Parent shall comply with each of the covenants set forth in Sections 8.1(i), 8.1(iii)(e), 8.2(ix) and 8.2(xi), in each case to the extent that such covenant applies to the Parent, including in its capacity as Guarantor.

## **9. CASH TRAP EVENTS; EVENTS OF DEFAULT; REMEDIES**

**9.1** Cash Trap Events. Any one or more of the following shall constitute a “Cash Trap Event” hereunder:

(i) The average Starting Salary with respect to the ISA Obligors of Qualifying Assets in any ISA Cohort is at any time less than \$4,583.34; or

(ii) The median Starting Salary with respect to the ISA Obligors of Qualifying Assets in any ISA Cohort is at any time less than \$4,375.00; or

(iii) The average Year Two Salary with respect to the ISA Obligors of Qualifying Assets in any ISA Cohort is at any time less than \$5,000.00; or

(iv) The average Year Three Salary with respect to the ISA Obligors of Qualifying Assets in any ISA Cohort is at any time less than \$5,416.67; or

(v) The average Year Four and Subsequent Salary with respect to the ISA Obligors of Qualifying Assets in any ISA Cohort is at any time less than \$5,833.34; or

(vi) The ISA Default Rate of any ISA Cohort is at any time greater than six percent (6.0%); or

(vii) The Job Placement Rate with respect to any ISA Cohort is at any time less than eighty percent (80.0%); or

(viii) The Graduation Rate with respect to any ISA Cohort is at any time less than seventy-five percent (75.0%); or

(ix) The Non-Payor Rate with respect to any ISA Cohort is at any time greater than eighteen percent (18.0%); or

(x) The occurrence of any Event of Default.

**9.2**     Events of Default. Any one or more of the following shall constitute an “*Event of Default*” hereunder:

(i)        Default in the payment when due of all or any part of any Obligation payable hereunder or under any other Loan Document (whether at the stated maturity thereof or at any other time provided for in this Agreement), or default in the payment when due of any other indebtedness or obligation (whether direct, contingent or otherwise) of the Borrower owing to the Lender; or

(ii)        Default in the observance or performance of any covenant set forth in Sections 8.1(i), (iv), (vi), (xiv) and (xvi), and 8.2(i), (ii), (iii), (iv), (v), (vi), (vii) and (xi) hereof or of any provision of any Loan Document requiring the maintenance of insurance on the Collateral subject thereto or dealing with the use or remittance of proceeds of Collateral; or

(iii)        Default in the observance or performance of any other provision hereof or of any other Loan Document which is not remedied within 10 Business Days after the earlier of (i) the date on which such failure shall first become known to any officer of the Borrower or (ii) written notice thereof is given to the Borrower by the Lender; or

(iv)        Any representation or warranty made by the Borrower or the Guarantor herein or in any other Loan Document, or in any statement or certificate furnished by it pursuant hereto or thereto, or in connection with any extension of credit made hereunder, proves untrue in any material respect as of the date of the issuance or making thereof; or

(v)        (i) Any event occurs or condition exists (other than those described in subsections (i) through (iv) above) which is specified as an event of default under any of the other Loan Documents, or any of the Loan Documents shall for any reason not be or shall cease to be in full force and effect, or any of the Loan Documents is declared to be null and void, or (ii) the Guarantor takes any action for the purpose of terminating, repudiating or rescinding any Loan Document executed by it or any of its obligations thereunder, or (iii) any of the Collateral Documents shall for any reason fail to create a valid and perfected first priority Lien in favor of the Lender in any Collateral purported to be covered thereby except as expressly permitted by the terms thereof; or

(vi)        Default shall occur under any Indebtedness issued, assumed or guaranteed by the Borrower or the Guarantor aggregating more than \$100,000, or under any indenture, agreement or other instrument under which the same may be issued, and such default shall continue for a period of time sufficient to permit the acceleration of the maturity of any such Indebtedness (whether or not such maturity is in fact accelerated), or any such Indebtedness shall not be paid when due (whether by lapse of time, acceleration or otherwise); or

(vii)        The Borrower, the Guarantor or any of their Affiliates originates any Income Share Agreements which the Lender reasonably determines in its sole discretion represent a substantial reputational risk to the Lender or its Affiliates; or

(viii)        Dissolution or termination of the existence of the Borrower or the Guarantor; or

(ix)        A Bankruptcy Event shall occur with respect to either the Borrower or the Guarantor; or

(x)        Any Qualifying Asset shall be sold by the Parent to any entity other than the Borrower prior to the first date on which aggregate principal amount outstanding of the Loans exceeds \$60,000,000; or

- (xi) The occurrence of any Regulatory Event; or
- (xii) The average Starting Salary with respect to the ISA Obligors of Qualifying Assets in any ISA Cohort is at any time less than \$4,166.67; or
- (xiii) The median Starting Salary with respect to the ISA Obligors of Qualifying Assets in any ISA Cohort is at any time less than \$3,958.34; or
- (xiv) The average Year Two Salary with respect to the ISA Obligors of Qualifying Assets in any ISA Cohort is at any time less than \$4,583.34; or
- (xv) The average Year Three Salary with respect to the ISA Obligors of Qualifying Assets in any ISA Cohort is at any time less than \$5,000.00; or
- (xvi) The average Year Four and Subsequent Salary with respect to the ISA Obligors of Qualifying Assets in any ISA Cohort is at any time less than \$5,416.67; or
- (xvii) The Non-Payor Rate with respect to any ISA Cohort is at any time greater than twenty-two percent (22.0%); or
- (xviii) The ISA Default Rate of any ISA Cohort is at any time greater than ten percent (10.0%); or
- (xix) The Job Placement Rate with respect to any ISA Cohort is at any time less than seventy-five percent (75.0%); or
- (xx) The Graduation Rate with respect to any ISA Cohort is at any time less than sixty-five percent (65.0%);

provided that the occurrences set forth in clauses (xii) – (xx) above shall not constitute Events of Default (a) prior to the date that is two (2) years following the A&R Closing Date, or (b) from the date that is two (2) years following the A&R Closing Date until the date that is five (5) years following the A&R Closing Date, if the then aggregate unpaid principal amount of the Loans is less than \$2,800,000.00; provided that, in the case of both (a) and (b) in the immediately preceding proviso, the collections with respect to any ISA Cohort (or funds deposited into the Collection Account by Parent) are sufficient to pay all accrued but unpaid interest on the Loans on any Payment Date with respect to each Interest Period.

### **9.3 Remedies.**

(i) When any Event of Default (other than those described in subsection (ix) of Section 9.2 with respect to the Borrower) has occurred and is continuing, the Lender may, by notice to the Borrower, take one or more of the following actions:

- (a) terminate the obligation of the Lender to extend any further Loans hereunder on the date (which may be the date thereof) stated in such notice;
- (b) (i) declare the principal of and the accrued interest on the Loans to be forthwith due and payable and thereupon the Loans, including both principal and interest and all fees, charges and other Obligations payable hereunder and under the other Loan Documents, shall be and become immediately due and payable without further demand, presentment, protest or notice

of any kind and/or (ii) require the Borrower to take any action with respect to the Collateral, including, without limitation the sale of any such Collateral and the deposit of the sale proceeds into the Collection Account; and/or

(c) enforce any and all rights and remedies available to it under the Loan Documents or applicable Laws.

(ii) When any Event of Default described in subsection (ix) of Section 9.2 with respect to the Borrower has occurred and is continuing, then the Loans, including both principal and interest, and all fees, charges and other Obligations payable hereunder and under the other Loan Documents, shall immediately become due and payable without presentment, demand, protest or notice of any kind, and the obligation of the Lender to extend further credit pursuant to any of the terms hereof shall immediately terminate. In addition, the Lender may exercise any and all remedies available to it under the Loan Documents or applicable Laws.

(iii) Upon any Loans becoming due and payable under this Section 9.3, whether automatically or by declaration, such Loans will forthwith mature and the entire unpaid principal amount of such Loans, plus all accrued and unpaid interest thereon (including interest accrued thereon at the default rate pursuant to Section 4.1(iv)), fees and any other Obligations, shall all be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. For the avoidance of doubt, Section 4.2(ii) shall not prohibit any payments under this Section 9.3(iii).

(iv) Following the occurrence and during the continuation of an Event of Default, the Borrower shall not, without the prior written consent of the Lender, make any distributions or other payments to parties other than the Lender prior to payment in full to the Lender of all amounts then payable pursuant to this Section 9.3.

## **10. THE ASSETS**

**10.1 Qualifying Assets.** The Borrower shall only purchase Assets that satisfy the definition of Qualifying Assets as set forth in Schedule 1 hereto. The Lender may, at its sole discretion, from time to time make modifications to the definitions set forth in Schedule 1 hereto, which modifications shall be effective upon thirty (30) days' notice to the Borrower as to Assets purchased by the Borrower on or after such date.

## **11. MISCELLANEOUS**

**11.1 Non-Business Days.** If any payment hereunder becomes due and payable on a day which is not a Business Day, the due date of such payment shall be extended to the next succeeding Business Day on which date such payment shall be due and payable. In the case of any payment of principal falling due on a day which is not a Business Day, interest on such principal amount shall continue to accrue during such extension at the rate per annum then in effect, which accrued amount shall be due and payable on the next scheduled date for the payment of interest.

**11.2 No Waiver, Cumulative Remedies.** No delay or failure on the part of the Lender or on the part of the holder of the Obligations in the exercise of any power or right shall operate as a waiver thereof or as an acquiescence in any default, nor shall any single or partial exercise of any power or right preclude any other or further exercise thereof or the exercise of any other power or right. The rights and remedies hereunder of the Lender and of the holder of the Obligations are cumulative to, and not exclusive of, any rights or remedies which any of them would otherwise have.

**11.3 Amendments, Etc.** No amendment, modification, termination or waiver of any provision of this Agreement or of any other Loan Document, nor consent to any departure by the Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Borrower and the Lender. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in similar or other circumstances.

**11.4 Assignments.** The provisions of this Agreement are hereby made applicable to and will inure to the benefit of the Lender's successors and assigns and Borrower's successors and assigns; provided, however, that Borrower may not assign or transfer its rights or obligations under this Agreement without the prior written consent of the Lender. The Lender may assign this Agreement and its rights and duties hereunder. The Lender reserves the right to sell, assign, transfer, negotiate, or grant participations in any Loan hereunder and all or any part of, or any interest in the Lenders' rights and benefits hereunder. In connection therewith, the Lender may disclose all documents and information which the Lender now or hereafter may have relating to Borrower or Borrower's business, with notice to the Borrower. The Borrower acknowledges and agrees that upon each such transfer, each such assignee shall be an express third-party beneficiary of this Agreement (including, without limitation, all representations and warranties hereunder), with the right to enforce any rights hereunder directly, as if such assignee were a direct party hereto.

**11.5 Indemnification.**

(i) The Borrower shall indemnify and hold harmless the Lender and its Affiliates, trustees, directors, officers, employees, members, managers, representatives, stockholders and agents (each, an "**Indemnified Party**") from and against, and agrees promptly to pay on demand or reimburse each of them with respect to, any and all liabilities, claims, demands, losses, obligations, damages, injuries, penalties, stamp or other similar taxes, actions, suits, judgments, costs, and expenses, including the costs and expenses of defending itself against any claim or liability (including, without limitation, attorneys' fees and expenses, and any adverse tax effects), (collectively, "**Losses**") of whatever kind or nature regardless of their merit, demanded, asserted or claimed against an Indemnified Party directly or indirectly relating to or arising out of, or incurred by or imposed upon any such Indemnified Party by reason of (a) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (b) any Loan or the use or proposed use of the proceeds therefrom, (c) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Borrower, the Guarantor or any of their respective Affiliates, or any Environmental Liability related in any way to the Borrower, the Guarantor or any of their respective Affiliates, (d) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or Guarantor, and regardless of whether any Indemnified Party is a party thereto or (e) the occurrence of any Regulatory Event; provided that such indemnity shall not, as to any Indemnified Party, be available to the extent that such losses, claims, damages, liabilities or related expenses (1) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnified Party, (2) result from a claim brought by the Borrower against an Indemnified Party for breach in bad faith of such Indemnified Party's obligations hereunder or under any other Loan Document, if the Borrower has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction or (3) result from a claim not involving an act or omission of the Borrower and that is brought by an Indemnified Party against another Indemnified Party. The Indemnified Party shall provide prompt written notice (a "**Claims Notice**") to the Borrower of any claim for indemnity pursuant to this Section 11.5. In the case of any claim for indemnity made pursuant to this Section 11.5, if the Borrower does not dispute the claim made by the Indemnified Party in writing within sixty (60) days of receipt of the related Claims Notice, the Borrower shall make payment of the applicable indemnification amount to the Indemnified

Party within ninety (90) days of receipt of the related Claims Notice. Such indemnification shall not give the Borrower any right to participate in the selection of counsel for the Indemnified Party or the conduct or settlement of any dispute or proceeding for which indemnification may be claimed. The provisions of this Section 11.5 shall survive the full payment, performance, and discharge of the obligations of the Borrower hereunder and the termination of this Agreement, and shall continue thereafter in full force and effect.

(ii) If the Borrower (a) repays any Loans in whole or in part on any date other than a Payment Date (whether such repayment is made pursuant to the terms of this Agreement, as a result of acceleration or by operation of law or otherwise), (b) defaults in payment when due of the principal amount of or interest on any Loan, (c) defaults in making a borrowing of any Loan after making a request pursuant to Section 2.2 (including any failure to satisfy the conditions precedent to any Loan set forth in Section 7.1), or (d) fails to make any prepayment as required pursuant to Section 4.2(i), then the Borrower shall indemnify the Lender from and against any and all liabilities, claims, demands, losses, obligations, damages, injuries, penalties, stamp or other similar taxes, actions, suits, judgments, costs, and expenses, including the costs and expenses of defending itself against any claim or liability (including, without limitation, attorneys' fees and expenses, and any adverse tax effects), resulting from any of the foregoing.

(iii) If (a) the introduction of or any change in or in the interpretation, application or implementation of any applicable Laws or GAAP or other applicable accounting policy after the date hereof, or (b) the compliance with any guideline or change in the interpretation, application or implementation of any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law) after the date hereof, (a "**Regulatory Change**") shall subject the Lender to any taxes on its loans, loan principal, commitments, or other obligations which, in the sole discretion of the Lender, is allocable to the Borrower or to the transactions contemplated by this Agreement, and the result of any of the foregoing is or would be (x) to increase the cost to or to impose a cost on the Lender making or maintaining any Loan, (y) to reduce the amount of any sum received or receivable by the Lender under this Agreement or (z) in the sole determination of the Lender, to reduce the rate of return on the capital of the Lender as a consequence of its obligations hereunder, then within thirty (30) days after written demand by the Lender (which demand shall be accompanied by a statement setting forth in reasonable detail the basis of such demand), the Borrower shall pay directly to the Lender such additional amount or amounts as will compensate the Lender for such additional or increased cost or such reduction.

(iv) Knowledge by an Indemnified Party of any breach or non-compliance hereunder shall not constitute a waiver of such Indemnified Party's rights and remedies under this Agreement, provided that such Indemnified Party shall have notified the Borrower of such breach or non-compliance in a timely manner and in accordance with the terms of this Section 11.5. No express or implied waiver by an Indemnified Party of any default hereunder shall in any way be, or be construed to be, a waiver of any other default. The failure or delay of an Indemnified Party to exercise any of its rights granted hereunder regarding any default shall not constitute a waiver of any such right as to any other default, and any single or partial exercise of any particular right granted to an Indemnified Party hereunder shall not exhaust the same or constitute a waiver of any other right provided herein.

**11.6 Limitation of Liability.** IN NO EVENT SHALL THE LENDER OR ANY OF ITS AFFILIATES, BENEFICIARIES, ASSIGNEES OR SUCCESSORS (BY ASSIGNMENT OR OTHERWISE) BE LIABLE TO THE BORROWER, PARENT, GUARANTOR, OR ANY OTHER ENTITY FOR SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFIT), UNDER THIS AGREEMENT INCURRED OR CLAIMED BY ANY PARTY OR ENTITY (OR SUCH PARTY OR ENTITY'S OFFICERS, DIRECTORS, STOCKHOLDERS, MEMBERS OR OWNERS), HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, EVEN IF THE LENDER HAS BEEN ADVISED OF

THE LIKELIHOOD OF SUCH LOSS OR DAMAGE AND REGARDLESS OF THE FORM OF ACTION.

**11.7 Documentary Taxes.** The Borrower agrees to pay on demand any documentary, stamp or similar taxes payable in respect of this Agreement or any other Loan Document, including interest and penalties, in the event any such taxes are assessed, irrespective of when such assessment is made and whether or not any credit is then in use or available hereunder.

**11.8 Survival.** All representations and warranties made herein or in any of the other Loan Documents or in certificates given pursuant hereto or thereto shall survive the execution and delivery of this Agreement and the other Loan Documents, and shall continue in full force and effect with respect to the date as of which they were made as long as any credit is in use or available hereunder. Restrictive provisions in this Agreement, such as indemnity, tax, immunity and jurisdiction provisions, shall survive the termination of this Agreement and the other Loan Documents.

**11.9 Notices.** All notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile, portable document format (“**PDF**”), tagged image file format (“**TIFF**”) or other electronic format sent by electronic transmission, as follows:

If to Lender, to:

CIM 14-I LLC  
600 Montgomery Street, Suite 1900  
San Francisco, CA 94111  
Attention: Jacob Haar  
Email: kenzie@cim-llc.com

If to Borrower to:

Kenzie Academy SPV, LLC  
c/o Southern New Hampshire University  
2500 North River Road  
Manchester, NH 03106 Attention: Strategic Sourcing Department  
Email: sourcing@snhu.edu  
With a copy to:

Southern New Hampshire University  
2500 North River Road  
Manchester, NH 03106  
Attn: Office of General Counsel and Compliance

If to Guarantor to:

Southern New Hampshire University  
2500 North River Road  
Manchester, NH 03106 Attention: Strategic Sourcing Department  
Email: sourcing@snhu.edu

With a copy to:

Southern New Hampshire University  
2500 North River Road  
Manchester, NH 03106  
Attn: Office of General Counsel and Compliance

Any party hereto may change its address, facsimile number or e-mail address for notices and other communications hereunder by notice to all of the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given when delivered in person or by courier service, upon receipt of a facsimile (with confirmation of successful transmission issued by the sender's fax machine) or TIFF, PDF or other electronic format sent by electronic transmission (with confirmation of successful transmission issued by the sender's electronic mail system, provided, that the sender's server has not subsequently issued a default, error or rejection notice), provided, that such facsimile or electronic transmission was received prior to 5:00 p.m. in the intended recipient's time zone on a Business Day and, if not, then on the Business Day after such transmission was confirmed, or five (5) days after deposit in the United States mail (certified with postage prepaid and properly addressed).

**11.10 Construction.** Nothing contained herein shall be deemed or construed to permit any act or omission which is prohibited by the terms of any of the other Loan Documents, the covenants and agreements contained herein being in addition to and not in substitution for the covenants and agreements contained in the other Loan Documents.

**11.11 Headings.** Section headings used in this Agreement are for convenience of reference only and are not a part of this Agreement for any other purpose.

**11.12 Severability of Provisions.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**11.13 Counterparts.** This Agreement may be executed in any number of counterparts, and by different parties hereto on separate counterpart signature pages, and all such counterparts taken together shall be deemed to constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile, PDF, TIFF or other electronic format sent by electronic transmission shall be equally as effective as delivery of a manually executed counterpart hereof.

**11.14 Binding Nature, Governing Law, Etc.** This Agreement shall be binding upon the Borrower and its successors and assigns, and shall inure to the benefit of the Lender and the benefit of its successors and assigns, including any subsequent holder of the Obligations. The Borrower may not assign its rights hereunder without the written consent of the Lender. This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof and any prior agreements, whether written or oral, with respect thereto are superseded hereby. This Agreement, and the rights, remedies and obligations of the parties hereto and thereto, and any claim, controversy or dispute arising under or related to this Agreement, the relationship of the parties, including but not limited to Section 11.5 below, and/or the interpretation and enforcement of the rights and duties of the parties, shall be governed by, and construed and interpreted in accordance with, the laws of the State of New York, without reference to its conflict of law provisions or any other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of New York.



**11.15 Arbitration.** Any dispute, controversy or claim arising under, out of or relating to this Agreement and any subsequent amendments of this Agreement, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be referred to and finally determined by arbitration by the AAA in accordance with the AAA's Expedited Procedures. The parties agree to conduct mediation during the course of such expedited arbitration under the AAA mediation procedures. The arbitration proceedings will not be delayed for mediation unless mutually agreed by the Lender and the Borrower. The place of mediation shall be San Francisco, California, but may be conducted by telephone by any party. The language to be used in the mediation shall be English. The arbitral tribunal shall consist of a sole arbitrator. The place of arbitration shall be San Francisco, California. The language to be used in the arbitral proceedings shall be English. Each party shall bear their own costs of mediation and arbitration during the course of the proceedings; provided that the prevailing party shall be entitled to reimbursement by the non-prevailing party of its fees, costs and expenses (including reasonable attorneys' fees) upon completion of the arbitration proceedings. The parties waive their respective rights to a jury trial, as well as their respective rights to participate in any class action, class-wide arbitration, or representative action of any kind in any forum. Each party retains the right to seek judicial assistance: (i) to compel arbitration; (ii) to obtain interim measures of protection prior to or pending arbitration; (iii) to seek injunctive relief in the courts of any jurisdiction as may be necessary and appropriate; and (iv) to enforce any decision of the arbitrator, including the final award. In no event shall any party be entitled to punitive damages, unless the other party shall have acted in bad faith or engaged in willful misconduct.

**11.16 Confidentiality.**

(i) Unless otherwise consented to by the other parties hereto, each party hereby agrees that it will not disclose the contents of this Agreement, or any other confidential or proprietary information furnished by a party (including, without limitation, personally identifiable information as to any individual and any trade secret of either party), except (a) where such party reasonably believes such disclosure is required by applicable Laws, is required to be included in regulatory filings or is requested by a competent governmental, administrative or regulatory authority having jurisdiction over such party; (b) to any Affiliate of such party or one or more of their employees, officers, directors, agents, attorneys or accountants who would have access to the contents of this Agreement and such data and information in the normal course of the performance of such Person's duties for such party, to the extent such party or such Affiliate has procedures in effect to inform such Person of the confidential nature thereof; (c) as may be required in connection with effecting any transfer or assignment permitted hereunder; (d) to any investor or prospective investor in the Lender or its Affiliates, provided that such prospective investor is informed that such information is confidential; and (e) where such party reasonably believed such disclosure is necessary for or used in the enforcement of such party's rights hereunder.

(ii) This Section 11.16 shall not be construed to prohibit (i) disclosure of any and all information that is or becomes publicly known through no fault or act of the receiving party, or its employees, consultants, advisors, officers or directors or Affiliates, or information obtained by such party from sources other than the disclosing party, or (ii) disclosure of any and all information (A) if required to do so by any applicable statute, law, rule or regulation, or in working with any taxing authorities or other governmental agencies, (B) to any government agency or regulatory body having or claiming authority to regulate or oversee any respects of the receiving party's business or that of its Affiliates, (C) pursuant to any subpoena, civil investigative demand or similar demand or request of any court, regulatory authority, arbitrator or arbitration to which the receiving party or an Affiliate or an officer, director, employer or shareholder thereof is a party, or (D) to any Affiliate, independent or internal auditor, agent, employee or attorney of the receiving party having a need to know the same, provided that the receiving party advises such recipient of the confidential nature of the information being disclosed, (iii) disclosure of any information that is disclosed by the disclosing party to a third party that is not subject to a duty of

confidentiality or (iv) is independently developed by the receiving party without reference to the disclosing party's confidential information.

[SIGNATURE PAGE TO FOLLOW]

This Loan Agreement is entered into between us for the uses and purposes hereinabove set forth as of the date first above written.

*“Borrower”*

**KENZIE ACADEMY SPV, LLC**

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

*“Parent” and “Guarantor”*

**SOUTHERN NEW HAMPSHIRE UNIVERSITY**

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

*“Lender”*

CIM 14-I LLC

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

Name:

Title:

## SCHEDULE 1

### QUALIFYING ASSETS

Certain terms used in this Schedule and not defined in the Loan Agreement are defined at the end of this Schedule.

**“Qualifying Asset”** shall mean (i) an ISA Asset that is a Qualifying ISA Asset or (ii) a Participation Asset that is a Qualifying Participation Asset.

**“Qualifying ISA Asset”** shall mean an ISA Asset with respect to which:

- a) The applicable Income Share Agreement satisfies all requirements for a Qualifying Participation Asset; and
  - b) The Graduation of the ISA Obligor with respect to such ISA Asset has occurred;
- provided that, the Lender may waive any of the conditions with respect to an ISA Asset so that such ISA Asset can be deemed to be a Qualifying ISA Asset for purposes of the Loan Agreement, but provided further, however, that the condition set forth in (b) above shall not be capable of being waived.

**“Qualifying Participation Asset”** shall mean a Participation Asset in respect of an Income Share Agreement which satisfies all of the following conditions:

- a) The related ISA Obligor is an Eligible ISA Obligor;
- b) Such Income Share Agreement was originated to fund attendance by the applicable ISA Obligor in an Eligible Program;
- c) The related ISA Obligor shall have commenced the program funded by such Income Share Agreement at least 30 days prior to the applicable Asset Purchase Date;
- d) Such Income Share Agreement shall not have any payment that is more than one (1) day overdue as of the applicable Asset Purchase Date;
- e) Such Income Share Agreement is in substantially the form attached as Exhibit A to the Loan Agreement, or such other form as approved by the Lender following receipt of the regulatory due diligence memorandum delivered pursuant to Section 7.2(viii) of the Loan Agreement;
- f) Such Income Share Agreement has been originated and underwritten in compliance with the Underwriting Policy, as attached as Exhibit B to the Loan Agreement;
- g) Such Income Share Agreement complies with all recommendations of the regulatory due diligence memorandum delivered pursuant to Section 7.2(viii) of the Loan Agreement;
- h) Such Income Share Agreement represents a legal, valid and binding obligation of the related ISA Obligor, enforceable against such ISA Obligor, in accordance with its terms, except as may be limited by bankruptcy, insolvency or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability;
- i) Such Income Share Agreement was originated in the ordinary course of the Parent's business in the United States;
- j) Such Income Share Agreement was originated in compliance with applicable Laws;
- k) The related ISA Obligor has not challenged the validity, in whole or in part, of the Income Share Agreement;

- l) Such Income Share Agreement has not been found to be fraudulent in any respect, including, without limitation, that such Income Share Agreement was entered into by the related ISA Obligor without ID theft or other fraud on the part of any Person;
- m) Such Income Share Agreement is not in default and has not been in default at any time following the origination of Such Income Share Agreement;
- n) Such Income Share Agreement has not been satisfied, subordinated or rescinded, and is in full force and effect as of the applicable Asset Purchase Date;
- o) No provision of the applicable ISA Documents has been waived, amended or modified;
- p) Under the terms of the applicable ISA Documents, such Income Share Agreement is assignable by its terms and is not subject to any provision prohibiting the transfer of such Income Share Agreement from Parent to Borrower;
- q) Parent has caused its master computer records relating to such Income Share Agreement to be clearly and unambiguously marked to show that such Income Share Agreement has been sold by Parent to Borrower;
- r) All parties to such Income Share Agreement and the related ISA Documents had legal capacity to enter into such ISA Documents;
- s) No written representation, warranty or other statement of Parent with respect to such Income Share Agreement, in any certificate or written statement given to Borrower or Lender, as of the date such representation, warranty or other statement was made, taken together with all such written certificates and written statements given to Borrower or Lender, contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained in the certificates or statements not misleading in light of the circumstances in which they were made;
- t) Such Income Share Agreement and the related ISA Documents have been duly and properly executed and delivered by the parties thereto;
- u) Such Income Share Agreement was not subject to any adverse selection;
- v) The Asset File for such Income Share Agreement is complete in all material respects and includes all amendments, supplements and modifications in respect thereof;
- w) All information about the related ISA Obligor included in the Asset File is, to the best of the Parent's knowledge after reasonable inquiry, true and accurate in all material respects as of the date of origination of such Income Share Agreement;
- x) The Parent has undergone commercially reasonable due diligence to verify that such Income Share Agreement satisfies the requirements for a Qualifying Asset and that the related ISA Obligor is an Eligible ISA Obligor; and
- y) The purchase by the Borrower of such Asset would not cause the State Concentration, with respect to any state of the United States other than Indiana, to be greater than ten percent (10%) or, if any State Concentration is then greater than ten percent, increase the State Concentration with respect to such state;

provided that, the Lender may waive any of the conditions with respect to a Participation Asset so that such Participation Asset can be deemed to be a Qualifying Participation Asset for purposes of the Loan Agreement.

**“Eligible ISA Obligor”** means an ISA Obligor satisfying each of the following eligibility criteria as of the Origination Date of the applicable Income Share Agreement:

- a) The ISA Obligor is at least 18 years old;
- b) The ISA Obligor is a United States citizen (including naturalized citizens), a permanent resident of the United States, or an individual covered by the DREAM Act;
- c) The ISA Obligor resides in a state in which the Subservicer has all required licenses, including collection agency licenses;
- d) The ISA Obligor has at least a high-school diploma or equivalent degree;
- e) The ISA Obligor passed the Financial Fitness Quiz within the first three attempts;
- f) No Bankruptcy Event with respect to such Eligible ISA Obligor is ongoing or shall have occurred within the prior 24 months, regardless of whether such Bankruptcy Event was discharged or dismissed;
- g) The ISA Obligor has no unpaid repossessions within the prior 12 months;
- h) The ISA Obligor has not had any debt charged off within the prior 12 months, except such debt as the ISA Obligor has repaid following the applicable charge-off;
- i) The ISA Obligor has not defaulted on any education loan within the prior 24 months;
- j) The ISA Obligor does not have any outstanding loan delinquencies which are (i) 90 days or more past due and (ii) in an aggregate amount greater than \$1,000;
- k) The ISA Obligor does not have any outstanding debts in collection status (excluding any medical collections) in an aggregate amount greater than \$5,000;
- l) The ISA Obligor has no more than seven credit inquiries within the prior 3 months;
- m) The ISA Obligor has no more than \$20,000 in outstanding Unsecured Consumer Debt;
- n) The ISA Obligor has no more than \$40,000 in outstanding Total Unsecured Debt;
- o) The ISA Obligor’s Student Debt to Income Projection Ratio is less than or equal to 25%; and
- p) The ISA Obligor’s Total Debt to Income Projection Ratio is less than or equal to 30%.

**“Asset Purchase Date”** means each “Purchase Date” under the Asset Purchase Agreement and Participation Agreement.

**“Eligible Program”** means (i) the in-person software engineering program, (ii) the online software engineering program, (iii) the in-person UX engineering program, and (iv) the online UX engineering program, in each case, which program was established by Kenzie Academy, Inc., and in which the ISA Obligor will have the opportunity to earn the Required Certificates; provided that any Eligible Program shall cease to be an Eligible Program if the Student Outcome Rates of such Eligible Program, if isolated from all other Eligible Programs, would cause an Event of Default pursuant to Section 9.2 of the Loan Agreement.

**“Financial Fitness Quiz”** means the financial fitness quiz given to each ISA Obligor by the Subservicer, which shall be in the form attached hereto as Annex A, or such modified form as approved by the Lender.

***“Projected Monthly Income”*** means, with respect to any ISA Obligor, the average Starting Salary of all Assets in the Borrower Portfolio, which amount shall be recalculated on an annual basis on such dates as determined by the Lender; provided that, until the first date that such calculation is available, as determined by the Lender, the Projected Monthly Income shall equal \$4,666.67.

***“State Concentration”*** means, with respect to any state in the United States, the percentage equal to (i) the number of ISA Obligors with respect to Assets in the Borrower Portfolio with outstanding obligations under the applicable Income Share Agreements who reside in such state divided by (ii) the total number of ISA Obligors with respect to Assets in the Borrower Portfolio with outstanding obligations under the applicable Income Share Agreements.

***“Student Debt to Income Projection Ratio”*** means, with respect to any ISA Obligor, the ratio obtained by dividing (i) the sum of the total monthly scheduled debt payments due on all of such ISA Obligor’s student loan indebtedness and expected monthly payments in respect of the applicable Income Share Agreement by (ii) such ISA Obligor’s Projected Monthly Income.

***“Student Outcome Rates”*** means, with respect to any group of Assets, the Job Placement Rate, ISA Default Rate, Graduation Rate, Non-Payor Rate, average Starting Salary, median Starting Salary, average Year Two Salary, average Year Three Salary, and average Year Four and Subsequent Salary.

***“Total Debt to Income Projection Ratio”*** means, with respect to any ISA Obligor, the ratio obtained by dividing (i) the sum of the total monthly scheduled debt payments due on all of such ISA Obligor’s indebtedness (including, but not limited to, any student loans, and excluding any mortgage payments) and expected monthly payments in respect of the applicable Income Share Agreement by (ii) such ISA Obligor’s Projected Monthly Income.

***“Total Unsecured Debt”*** means, with respect to any ISA Obligor, the sum of (i) the total outstanding balance of all of such ISA Obligor’s unsecured revolving tradelines, (ii) the total outstanding balance of all of such ISA Obligor’s unsecured installment loans and (iii) the total outstanding balance of all of such ISA Obligor’s medical debt.

***“Unsecured Consumer Debt”*** means, with respect to any ISA Obligor, the sum of (i) the total outstanding balance of all of such ISA Obligor’s unsecured revolving tradelines and (ii) the total outstanding balance of all of such ISA Obligor’s unsecured installment loans; provided that Unsecured Consumer Debt shall not include any of such ISA Obligor’s medical debt.



## **SCHEDULE 2**

### **Reporting Requirements**

#### **Monthly Payment Reports**

- Reported Income with respect to each Asset
- Expected Payments (based on Reported Income) with respect to each Asset
- Actual Payments with respect to each Asset
- Any Payment or Information Defaults

#### **Monthly Reports**

- Origination Information
  - Credit Data relating to the Asset (including but not limited to satisfaction of Qualifying Asset criteria, FICO credit score of the ISA Obligor, and details from the ISA Obligor's credit report)
  - Type of Asset originated (including whether such Asset is a Qualifying Asset, either by satisfaction of the criteria thereto or waiver from the Lender, a Kenzie Hope Asset or a Digital Marketing Asset)
  - Financial Fitness Quiz Pass/Fail History of ISA Obligor with respect to each Asset
- Payment Information
  - Reported Income with respect to each Asset
  - Expected Payments (based on Reported Income) with respect to each Asset
  - Actual Payments with respect to each Asset
  - Any Payment or Information Defaults

#### **Monthly Kenzie Student Reports**

- Enrollment
  - Enrollment history at Kenzie Academy
  - Dropout rate of Kenzie students
  - Job Placement Rate of all Kenzie students
- Outcome
  - Average Starting Salary and average current salary of each ISA Cohort
  - Job Placement Rates (including industry and job type) with respect to each ISA Cohort
  - Graduation Rate of all Kenzie students
  - Payment or Information Defaults with respect to each ISA Cohort

### **SCHEDULE 3**

**[INTENTIONALLY OMITTED]**

## EXHIBIT A

## **EXHIBIT B**

**EXHIBIT C**  
**ADVANCE REQUEST**

Advance Request

delivered under Amended & Restated Loan Agreement dated as of October 10, 2019 between  
Kenzie Academy SPV, LLC, as Borrower, Southern New Hampshire University, as Parent and Guarantor,  
and CIM 14-I LLC, as Lender ("Loan Agreement")

[DATE]

Capitalized terms used in this notice but not defined here have the meanings given to them as defined terms in the Loan Agreement.

In accordance with the terms of Section 2.2 of the Loan Agreement:

1. Borrower hereby requests Lender to make a Loan in the amount of \$[ ] to be advanced on [ ] (the "Advance Date").
2. All of the conditions to this Loan pursuant to section 7.1 of the Loan Agreement have been satisfied or will be satisfied prior to the Advance Date.

[ ]

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

## **EXHIBIT D**