

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-Q

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.

For the quarterly period ended June 30, 2022

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934.

For the transition period from _____ to _____

Commission File Number: 001-35780

BRIGHT HORIZONS FAMILY SOLUTIONS INC.

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction
of incorporation)

80-0188269

(I.R.S. Employer
Identification Number)

2 Wells Avenue

Newton, Massachusetts

(Address of principal executive offices)

02459

(Zip code)

Registrant's telephone number, including area code: (617) 673-8000

Not Applicable

(Former name, former address and former fiscal year, if changed since last report)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, \$0.001 par value per share	BFAM	New York Stock Exchange

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>
		Emerging growth company	<input type="checkbox"/>

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes No

As of July 26, 2022, there were 57,810,875 shares of common stock outstanding.

BRIGHT HORIZONS FAMILY SOLUTIONS INC.

FORM 10-Q

For the quarterly period ended June 30, 2022

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PART I. FINANCIAL INFORMATION**Item 1. Condensed Consolidated Financial Statements (Unaudited)**

BRIGHT HORIZONS FAMILY SOLUTIONS INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(Unaudited)

	June 30, 2022	December 31, 2021
(In thousands, except share data)		
ASSETS		
Current assets:		
Cash and cash equivalents	\$ 270,425	\$ 260,980
Accounts receivable — net of allowance for credit losses of \$2,790 and \$3,006 at June 30, 2022 and December 31, 2021, respectively	171,114	210,971
Prepaid expenses and other current assets	75,370	68,320
Total current assets	516,909	540,271
Fixed assets — net	558,143	598,134
Goodwill	1,441,185	1,481,725
Other intangible assets — net	235,769	251,032
Operating lease right-of-use assets	678,809	696,425
Other assets	94,578	72,460
Total assets	\$ 3,525,393	\$ 3,640,047
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current liabilities:		
Current portion of long-term debt	\$ 16,000	\$ 16,000
Accounts payable and accrued expenses	208,458	197,366
Current portion of operating lease liabilities	87,130	87,341
Deferred revenue	212,955	258,438
Other current liabilities	74,815	63,030
Total current liabilities	599,358	622,175
Long-term debt — net	968,989	976,396
Operating lease liabilities	686,971	703,911
Other long-term liabilities	89,952	100,091
Deferred revenue	9,320	9,689
Deferred income taxes	51,817	48,509
Total liabilities	2,406,407	2,460,771
Stockholders' equity:		
Preferred stock, \$0.001 par value; 25,000,000 shares authorized; no shares issued or outstanding at June 30, 2022 and December 31, 2021	—	—
Common stock, \$0.001 par value; 475,000,000 shares authorized; 58,622,868 and 59,305,160 shares issued and outstanding at June 30, 2022 and December 31, 2021, respectively	59	59
Additional paid-in capital	680,618	745,615
Accumulated other comprehensive loss	(77,003)	(37,359)
Retained earnings	515,312	470,961
Total stockholders' equity	1,118,986	1,179,276
Total liabilities and stockholders' equity	\$ 3,525,393	\$ 3,640,047

See accompanying notes to condensed consolidated financial statements.

BRIGHT HORIZONS FAMILY SOLUTIONS INC.
CONDENSED CONSOLIDATED STATEMENTS OF INCOME
(Unaudited)

	Three months ended June 30,		Six months ended June 30,	
	2022	2021	2022	2021
	(In thousands, except share data)			
Revenue	\$ 490,341	\$ 441,478	\$ 950,750	\$ 832,318
Cost of services	361,816	335,496	712,166	644,978
Gross profit	128,525	105,982	238,584	187,340
Selling, general and administrative expenses	73,673	64,458	145,419	124,568
Amortization of intangible assets	7,030	7,512	14,179	15,052
Income from operations	47,822	34,012	78,986	47,720
Loss on foreign currency forward contracts	(5,917)	—	(5,917)	—
Interest expense — net	(7,942)	(9,580)	(14,988)	(18,596)
Income before income tax	33,963	24,432	58,081	29,124
Income tax expense	(9,018)	(5,617)	(13,730)	(3,177)
Net income	<u>\$ 24,945</u>	<u>\$ 18,815</u>	<u>\$ 44,351</u>	<u>\$ 25,947</u>
Earnings per common share:				
Common stock — basic	\$ 0.42	\$ 0.31	\$ 0.75	\$ 0.43
Common stock — diluted	\$ 0.42	\$ 0.31	\$ 0.74	\$ 0.42
Weighted average common shares outstanding:				
Common stock — basic	59,113,044	60,551,528	59,103,884	60,573,237
Common stock — diluted	59,252,869	61,106,792	59,334,107	61,216,383

See accompanying notes to condensed consolidated financial statements.

BRIGHT HORIZONS FAMILY SOLUTIONS INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(Unaudited)

	<u>Three months ended June 30,</u>		<u>Six months ended June 30,</u>	
	<u>2022</u>	<u>2021</u>	<u>2022</u>	<u>2021</u>
	(In thousands)			
Net income	\$ 24,945	\$ 18,815	\$ 44,351	\$ 25,947
Other comprehensive income (loss):				
Foreign currency translation adjustments	(46,345)	1,213	(63,351)	699
Unrealized gain on cash flow hedges and investments, net of tax	5,007	964	23,707	2,716
Total other comprehensive income (loss)	(41,338)	2,177	(39,644)	3,415
Comprehensive income (loss)	<u>\$ (16,393)</u>	<u>\$ 20,992</u>	<u>\$ 4,707</u>	<u>\$ 29,362</u>

See accompanying notes to condensed consolidated financial statements.

BRIGHT HORIZONS FAMILY SOLUTIONS INC.
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(Unaudited)

Three months ended June 30, 2022							
	Common Stock		Additional Paid-in Capital	Treasury Stock, at Cost	Accumulated Other Comprehensive Income (Loss)	Retained Earnings	Total Stockholders' Equity
	Shares	Amount					
(In thousands, except share data)							
Balance at April 1, 2022	59,133,183	\$ 59	\$ 717,745	\$ —	\$ (35,665)	\$ 490,367	\$ 1,172,506
Stock-based compensation expense			7,672				7,672
Issuance of common stock under the Equity Incentive Plan	50,437	—	1,730				1,730
Shares received in net share settlement of stock option exercises and vesting of restricted stock	(18,718)	—	(1,979)				(1,979)
Purchase of treasury stock				(44,550)			(44,550)
Retirement of treasury stock	(542,034)	—	(44,550)	44,550			—
Other comprehensive loss					(41,338)		(41,338)
Net income						24,945	24,945
Balance at June 30, 2022	<u>58,622,868</u>	<u>\$ 59</u>	<u>\$ 680,618</u>	<u>\$ —</u>	<u>\$ (77,003)</u>	<u>\$ 515,312</u>	<u>\$ 1,118,986</u>

Three months ended June 30, 2021							
	Common Stock		Additional Paid-in Capital	Treasury Stock, at Cost	Accumulated Other Comprehensive Income (Loss)	Retained Earnings	Total Stockholders' Equity
	Shares	Amount					
(In thousands, except share data)							
Balance at April 1, 2021	60,726,701	\$ 61	\$ 928,761	\$ —	\$ (25,831)	\$ 407,634	\$ 1,310,625
Stock-based compensation expense			5,829				5,829
Issuance of common stock under the Equity Incentive Plan	75,169	—	5,341				5,341
Shares received in net share settlement of stock option exercises and vesting of restricted stock	(8,114)	—	(1,297)				(1,297)
Purchase of treasury stock				(70,346)			(70,346)
Retirement of treasury stock	(515,000)	(1)	(70,345)	70,346			—
Other comprehensive income					2,177		2,177
Net income						18,815	18,815
Balance at June 30, 2021	<u>60,278,756</u>	<u>\$ 60</u>	<u>\$ 868,289</u>	<u>\$ —</u>	<u>\$ (23,654)</u>	<u>\$ 426,449</u>	<u>\$ 1,271,144</u>

See accompanying notes to condensed consolidated financial statements.

BRIGHT HORIZONS FAMILY SOLUTIONS INC.
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY
(Unaudited)

Six months ended June 30, 2022

	<u>Common Stock</u>		<u>Additional Paid-in Capital</u>	<u>Treasury Stock, at Cost</u>	<u>Accumulated Other Comprehensive Income (Loss)</u>	<u>Retained Earnings</u>	<u>Total Stockholders' Equity</u>
	<u>Shares</u>	<u>Amount</u>					
(In thousands, except share data)							
Balance at January 1, 2022	59,305,160	\$ 59	\$ 745,615	\$ —	\$ (37,359)	\$ 470,961	\$ 1,179,276
Stock-based compensation expense			13,768				13,768
Issuance of common stock under the Equity Incentive Plan	215,954	1	10,624				10,625
Shares received in net share settlement of stock option exercises and vesting of restricted stock	(44,312)	—	(5,154)				(5,154)
Purchase of treasury stock				(84,236)			(84,236)
Retirement of treasury stock	(853,934)	(1)	(84,235)	84,236			—
Other comprehensive loss					(39,644)		(39,644)
Net income						44,351	44,351
Balance at June 30, 2022	<u>58,622,868</u>	<u>\$ 59</u>	<u>\$ 680,618</u>	<u>\$ —</u>	<u>\$ (77,003)</u>	<u>\$ 515,312</u>	<u>\$ 1,118,986</u>

Six months ended June 30, 2021

	<u>Common Stock</u>		<u>Additional Paid-in Capital</u>	<u>Treasury Stock, at Cost</u>	<u>Accumulated Other Comprehensive Income (Loss)</u>	<u>Retained Earnings</u>	<u>Total Stockholders' Equity</u>
	<u>Shares</u>	<u>Amount</u>					
(In thousands, except share data)							
Balance at January 1, 2021	60,466,168	\$ 60	\$ 910,304	\$ —	\$ (27,069)	\$ 400,502	\$ 1,283,797
Stock-based compensation expense			11,135				11,135
Issuance of common stock under the Equity Incentive Plan	371,561	1	24,337				24,338
Shares received in net share settlement of stock option exercises and vesting of restricted stock	(43,973)	—	(7,142)				(7,142)
Purchase of treasury stock				(70,346)			(70,346)
Retirement of treasury stock	(515,000)	(1)	(70,345)	70,346			—
Other comprehensive income					3,415		3,415
Net income						25,947	25,947
Balance at June 30, 2021	<u>60,278,756</u>	<u>\$ 60</u>	<u>\$ 868,289</u>	<u>\$ —</u>	<u>\$ (23,654)</u>	<u>\$ 426,449</u>	<u>\$ 1,271,144</u>

See accompanying notes to condensed consolidated financial statements.

BRIGHT HORIZONS FAMILY SOLUTIONS INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(Unaudited)

	Six months ended June 30,	
	2022	2021
(In thousands)		
CASH FLOWS FROM OPERATING ACTIVITIES:		
Net income	\$ 44,351	\$ 25,947
Adjustments to reconcile net income to net cash provided by operating activities:		
Depreciation and amortization	50,661	55,392
Stock-based compensation expense	13,768	11,135
Loss on foreign currency forward contracts	5,917	—
Deferred income taxes	(4,269)	2,238
Other non-cash adjustments — net	(451)	513
Changes in assets and liabilities:		
Accounts receivable	38,255	35,338
Prepaid expenses and other current assets	(5,813)	(10,612)
Accounts payable and accrued expenses	16,636	(1,818)
Income taxes	(10,899)	(19,908)
Deferred revenue	(43,000)	28,117
Leases	734	(2,143)
Other assets	12,087	3,101
Other current and long-term liabilities	7,793	8,425
Net cash provided by operating activities	<u>125,770</u>	<u>135,725</u>
CASH FLOWS FROM INVESTING ACTIVITIES:		
Purchases of fixed assets	(26,186)	(33,953)
Proceeds from the disposal of fixed assets	6,940	5,490
Purchases of debt securities and other investments	(7,030)	(10,611)
Proceeds from the maturity of debt securities and sale of other investments	11,009	10,500
Settlement of foreign currency forward contracts	(4,591)	—
Payments and settlements for acquisitions — net of cash acquired	(3,282)	(9,082)
Net cash used in investing activities	<u>(23,140)</u>	<u>(37,656)</u>
CASH FLOWS FROM FINANCING ACTIVITIES:		
Principal payments of long-term debt	(8,000)	(5,375)
Payments of debt issuance costs	—	(2,057)
Purchase of treasury stock	(72,554)	(70,346)
Proceeds from issuance of common stock upon exercise of options and restricted stock upon purchase	10,554	28,180
Taxes paid related to the net share settlement of stock options and restricted stock	(5,154)	(7,142)
Payments of contingent consideration for acquisitions	(13,865)	—
Net cash used in financing activities	<u>(89,019)</u>	<u>(56,740)</u>
Effect of exchange rates on cash, cash equivalents and restricted cash	(2,215)	(675)
Net increase in cash, cash equivalents and restricted cash	11,396	40,654
Cash, cash equivalents and restricted cash — beginning of period	265,281	388,465
Cash, cash equivalents and restricted cash — end of period	<u>\$ 276,677</u>	<u>\$ 429,119</u>

See accompanying notes to condensed consolidated financial statements.

BRIGHT HORIZONS FAMILY SOLUTIONS INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS (CONTINUED)
(Unaudited)

	Six months ended June 30,	
	2022	2021
(In thousands)		
RECONCILIATION OF CASH, CASH EQUIVALENTS AND RESTRICTED CASH TO THE CONSOLIDATED BALANCE SHEETS:		
Cash and cash equivalents	\$ 270,425	\$ 418,638
Restricted cash and cash equivalents, included in prepaid expenses and other current assets	6,252	10,481
Total cash, cash equivalents and restricted cash — end of period	\$ 276,677	\$ 429,119
SUPPLEMENTAL CASH FLOW INFORMATION:		
Cash payments of interest	\$ 13,458	\$ 16,815
Cash payments of income taxes	\$ 29,187	\$ 21,200
Cash paid for amounts included in the measurement of lease liabilities	\$ 64,887	\$ 72,496
NON-CASH TRANSACTIONS:		
Fixed asset purchases recorded in accounts payable and accrued expenses	\$ 1,999	\$ 2,849
Contingent consideration issued for acquisitions	\$ —	\$ 7,337
Operating right-of-use assets obtained in exchange for operating lease liabilities — net	\$ 29,280	\$ 28,147
Restricted stock reclassified from other current liabilities to equity upon vesting	\$ 3,160	\$ 4,178
Treasury stock purchases in other current liabilities	\$ 11,909	\$ —

See accompanying notes to condensed consolidated financial statements.

BRIGHT HORIZONS FAMILY SOLUTIONS INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(Unaudited)

1. ORGANIZATION AND BASIS OF PRESENTATION

Organization — Bright Horizons Family Solutions Inc. (“Bright Horizons” or the “Company”) provides center-based early education and child care, back-up child and adult/elder care, tuition assistance and student loan repayment program administration, educational advisory services, and other support services for employers and families in the United States, the United Kingdom, the Netherlands, Puerto Rico and India. The Company provides services designed to help families, employers and their employees better integrate work and family life, primarily under multi-year contracts with employers who offer child care, dependent care, and workforce education services, as part of their employee benefits packages in an effort to support employees across life and career stages and improve employee engagement. On July 1, 2022, the Company, through wholly-owned subsidiaries, completed the acquisition of the outstanding shares of Only About Children, a child care operator in Australia. See Note 12, *Subsequent Event*, for additional information.

Basis of Presentation — The accompanying unaudited condensed consolidated balance sheet as of June 30, 2022 and the condensed consolidated statements of income, comprehensive income (loss), changes in stockholders’ equity, and cash flows for the interim periods ended June 30, 2022 and 2021 have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP” or “GAAP”) for interim financial information and pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”). Accordingly, they do not include all of the information and footnotes required in accordance with U.S. GAAP for complete financial statements and should be read in conjunction with the audited financial statements included in the Company’s Annual Report on Form 10-K for the year ended December 31, 2021. The consolidated financial statements include the accounts of the Company and its subsidiaries. Intercompany balances and transactions have been eliminated in consolidation.

In the opinion of the Company’s management, the Company’s unaudited condensed consolidated balance sheet as of June 30, 2022 and the condensed consolidated statements of income, comprehensive income (loss), changes in stockholders’ equity, and cash flows for the interim periods ended June 30, 2022 and 2021, reflect all adjustments (consisting only of normal and recurring adjustments) necessary to present fairly the results of the interim periods presented. The operating results for the interim periods presented are not necessarily indicative of the results expected for the full year.

Stockholders’ Equity — The board of directors of the Company authorized a share repurchase program of up to \$400 million of the Company’s outstanding common stock effective December 16, 2021. The share repurchase program has no expiration date and replaced the prior June 2018 authorization. The shares may be repurchased from time to time in open market transactions at prevailing market prices, in privately negotiated transactions, under Rule 10b5-1 plans, or by other means in accordance with federal securities laws. During the six months ended June 30, 2022, the Company repurchased 0.9 million shares for \$84.2 million. At June 30, 2022, \$296.4 million remained available under the repurchase program. During the six months ended June 30, 2021, 0.5 million shares were repurchased for \$70.3 million. All repurchased shares have been retired.

Government Support — During the six months ended June 30, 2022 and 2021, the Company participated in government support programs that were enacted in response to the economic impact of the COVID-19 pandemic, including availing itself of certain tax deferrals, tax credits and federal block grant funding in the United States, as well as employee wage support in the United Kingdom.

During the six months ended June 30, 2022 and 2021, \$46.7 million and \$17.0 million, respectively, was recorded as a reduction to cost of services in relation to these benefits, of which \$16.0 million and \$5.7 million, respectively, reduced the operating subsidy revenue due from employers for the related child care centers. Additionally during the six months ended June 30, 2022, amounts received for tuition support of \$3.4 million were recorded to revenue. As of June 30, 2022 and December 31, 2021, \$1.6 million and \$3.3 million, respectively, was recorded in prepaid expenses and other current assets on the consolidated balance sheet for amounts due from government support programs. As of June 30, 2022 and December 31, 2021, \$7.0 million and \$3.9 million was recorded to other current liabilities related to government support received related to future periods, and as of June 30, 2022 and December 31, 2021, payroll tax deferrals of \$7.0 million were recorded in accounts payable and accrued expenses on the consolidated balance sheet.

2. REVENUE RECOGNITION

Disaggregation of Revenue

The Company disaggregates revenue from contracts with customers into segments and geographical regions. Revenue disaggregated by segment and geographical region was as follows:

	Full service center-based child care	Back-up care	Educational advisory and other services	Total
(In thousands)				
Three months ended June 30, 2022				
North America	\$ 257,822	\$ 85,096	\$ 27,311	\$ 370,229
Europe	113,494	6,618	—	120,112
	<u>\$ 371,316</u>	<u>\$ 91,714</u>	<u>\$ 27,311</u>	<u>\$ 490,341</u>
Three months ended June 30, 2021				
North America	\$ 216,327	\$ 76,660	\$ 25,567	\$ 318,554
Europe	118,100	4,824	—	122,924
	<u>\$ 334,427</u>	<u>\$ 81,484</u>	<u>\$ 25,567</u>	<u>\$ 441,478</u>
	Full service center-based child care	Back-up care	Educational advisory and other services	Total
(In thousands)				
Six months ended June 30, 2022				
North America	\$ 501,059	\$ 161,025	\$ 52,944	\$ 715,028
Europe	224,189	11,533	—	235,722
	<u>\$ 725,248</u>	<u>\$ 172,558</u>	<u>\$ 52,944</u>	<u>\$ 950,750</u>
Six months ended June 30, 2021				
North America	\$ 408,781	\$ 147,842	\$ 49,733	\$ 606,356
Europe	215,965	9,997	—	225,962
	<u>\$ 624,746</u>	<u>\$ 157,839</u>	<u>\$ 49,733</u>	<u>\$ 832,318</u>

The classification “North America” is comprised of the Company’s United States and Puerto Rico operations and the classification “Europe” includes the Company’s United Kingdom, Netherlands, and India operations.

Deferred Revenue

The Company records deferred revenue when payments are received in advance of the Company’s performance under the contract, which is recognized as revenue as the performance obligation is satisfied. During the six months ended June 30, 2022 and 2021, \$181.0 million and \$146.7 million was recognized as revenue related to the deferred revenue balance recorded at December 31, 2021 and December 31, 2020, respectively.

Remaining Performance Obligations

The Company does not disclose the value of unsatisfied performance obligations for contracts with an original contract term of one year or less, or for variable consideration allocated to the unsatisfied performance obligation of a series of services. The transaction price allocated to the remaining performance obligations relates to services that are paid or invoiced in advance. The Company’s remaining performance obligations not subject to the practical expedients were not material.

3. LEASES

The Company has operating leases for certain of its full service and back-up early education and child care centers, corporate offices, call centers, and to a lesser extent, various office equipment, in the United States, the United Kingdom, and the Netherlands. Most of the leases expire within 10 to 15 years and many contain renewal options and/or termination provisions. As of June 30, 2022 and December 31, 2021, there were no material finance leases.

Lease Expense

The components of lease expense were as follows:

	Three months ended June 30,		Six months ended June 30,	
	2022	2021	2022	2021
	(In thousands)			
Operating lease expense ⁽¹⁾	\$ 32,359	\$ 33,652	\$ 64,887	\$ 67,277
Variable lease expense ⁽¹⁾	9,768	6,735	19,712	13,677
Total lease expense	\$ 42,127	\$ 40,387	\$ 84,599	\$ 80,954

(1) Excludes short-term lease expense and sublease income, which were immaterial for the periods presented.

Other Information

The weighted average remaining lease term and the weighted average discount rate were as follows:

	June 30, 2022	December 31, 2021
Weighted average remaining lease term (in years)	10	10
Weighted average discount rate	5.8%	5.8%

Maturity of Lease Liabilities

The following table summarizes the maturity of lease liabilities as of June 30, 2022:

	Operating Leases
	(In thousands)
Remainder of 2022	\$ 53,830
2023	129,356
2024	120,547
2025	109,078
2026	100,861
Thereafter	508,251
Total lease payments	1,021,923
Less imputed interest	(247,822)
Present value of lease liabilities	774,101
Less current portion of operating lease liabilities	(87,130)
Long-term operating lease liabilities	\$ 686,971

As of June 30, 2022, the Company had entered into additional operating leases that have not yet commenced with total fixed payment obligations of \$27.5 million. The leases are expected to commence between the third quarter of 2022 and the first quarter of 2023 and have initial lease terms of approximately 10 to 15 years.

4. ACQUISITIONS

The Company's growth strategy includes expansion through strategic and synergistic acquisitions. The goodwill resulting from these acquisitions arises largely from synergies expected from combining the operations of the businesses acquired with the Company's existing operations, including cost efficiencies and leveraging existing client relationships, as well as from benefits derived from gaining the related assembled workforce.

2022 Acquisitions

During the six months ended June 30, 2022, the Company acquired one center in the Netherlands, which was accounted for as a business combination. This business was acquired for aggregate cash consideration of \$3.3 million and consideration payable of \$0.2 million. The Company recorded goodwill of \$3.1 million related to the full service center-based child care segment in relation to this acquisition, which will not be deductible for tax purposes. In addition, the Company recorded intangible assets of \$0.5 million that will be amortized over four years.

The determination and allocation of purchase price consideration is based on preliminary estimates of fair value; such estimates and assumptions are subject to change within the measurement period (up to one year from the acquisition date). As of June 30, 2022, the purchase price allocation for this acquisition remains open as the Company gathers additional information regarding the assets acquired and the liabilities assumed. The operating results for the acquired businesses are included in the consolidated results of operations from the date of acquisition, and were not material to the Company's financial results.

During the six months ended June 30, 2022, the Company paid contingent consideration of \$19.1 million related to an acquisition completed in 2019 and contingent consideration of \$0.2 million related to an acquisition completed in 2021. Of the total amounts paid of \$19.3 million, \$13.9 million had been recorded as a liability at the date of acquisition and presented as cash used in financing activities in the consolidated statement of cash flows with remaining amounts reflected as cash used in operating activities.

On July 1, 2022, the Company, through wholly-owned subsidiaries, completed the acquisition of the outstanding shares of Only About Children, a child care operator in Australia, for aggregate consideration of AUD\$450 million. See Note 12, *Subsequent Event*, for additional information.

2021 Acquisitions

During the year ended December 31, 2021, the Company acquired two centers as well as a school-age camp provider in the United States, 13 centers in the United Kingdom, and three centers in the Netherlands, in five separate business acquisitions, which were each accounted for as a business combination. These businesses were acquired for aggregate cash consideration of \$53.2 million, net of cash acquired of \$2.2 million, and consideration payable of \$0.6 million. Additionally, the Company is subject to contingent consideration payments for two of these acquisitions, and recorded a fair value estimate of \$7.3 million in relation to these contingent consideration arrangements at acquisition. Contingent consideration of up to \$1.2 million was payable within one year from the date of acquisition if certain performance targets were met for one of the acquisitions, of which \$0.8 million was paid in 2021 based on the performance targets met. Contingent consideration is payable in 2026 based on certain financial metrics for the other acquisition. The Company recorded goodwill of \$39.5 million related to the full service center-based child care segment, of which \$3.4 million will be deductible for tax purposes, and \$14.6 million related to the back-up care segment, all of which will be deductible for tax purposes. In addition, the Company recorded intangible assets of \$5.7 million that will be amortized over five years, as well as fixed assets of \$10.1 million in relation to these acquisitions.

The allocation of purchase price consideration is based on preliminary estimates of fair value; such estimates and assumptions are subject to change within the measurement period (up to one year from the acquisition date). As of June 30, 2022, the purchase price allocations for three of the acquisitions remain open as the Company gathers additional information regarding the assets acquired and the liabilities assumed.

During the year ended December 31, 2021, the Company paid \$0.6 million for contingent consideration related to acquisitions completed in 2021, which had been recorded as a liability at the date of acquisition.

5. GOODWILL AND INTANGIBLE ASSETS

The changes in the carrying amount of goodwill were as follows:

	Full service center-based child care	Back-up care	Educational advisory and other services	Total
	(In thousands)			
Balance at January 1, 2022	\$ 1,233,096	\$ 208,786	\$ 39,843	\$ 1,481,725
Additions from acquisitions	3,130	—	—	3,130
Effect of foreign currency translation	(41,052)	(2,618)	—	(43,670)
Balance at June 30, 2022	<u>\$ 1,195,174</u>	<u>\$ 206,168</u>	<u>\$ 39,843</u>	<u>\$ 1,441,185</u>

The Company also has intangible assets, which consisted of the following at June 30, 2022 and December 31, 2021:

June 30, 2022	Weighted average amortization period	Cost	Accumulated amortization	Net carrying amount
(In thousands)				
Definite-lived intangible assets:				
Customer relationships	14 years	\$ 396,569	\$ (342,659)	\$ 53,910
Trade names	6 years	11,463	(9,888)	1,575
		<u>408,032</u>	<u>(352,547)</u>	<u>55,485</u>
Indefinite-lived intangible assets:				
Trade names	N/A	180,284	—	180,284
		<u>\$ 588,316</u>	<u>\$ (352,547)</u>	<u>\$ 235,769</u>
<hr/>				
December 31, 2021	Weighted average amortization period	Cost	Accumulated amortization	Net carrying amount
(In thousands)				
Definite-lived intangible assets:				
Customer relationships	14 years	\$ 400,399	\$ (332,571)	\$ 67,828
Trade names	6 years	12,358	(10,150)	2,208
		<u>412,757</u>	<u>(342,721)</u>	<u>70,036</u>
Indefinite-lived intangible assets:				
Trade names	N/A	180,996	—	180,996
		<u>\$ 593,753</u>	<u>\$ (342,721)</u>	<u>\$ 251,032</u>

The Company estimates that it will record amortization expense related to intangible assets existing as of June 30, 2022 as follows over the next five years:

	Estimated amortization expense
	(In thousands)
Remainder of 2022	\$ 14,079
2023	\$ 26,601
2024	\$ 12,174
2025	\$ 1,974
2026	\$ 971

6. CREDIT ARRANGEMENTS AND DEBT OBLIGATIONS**Senior Secured Credit Facilities**

The Company's senior secured credit facilities consist of a term loan B facility of \$600 million ("term loan B") and a term loan A facility of \$400 million ("term loan A"), collectively the "term loan facilities" or "term loans," as well as a \$400 million multi-currency revolving credit facility ("revolving credit facility"). Long-term debt obligations were as follows:

	June 30, 2022	December 31, 2021
	(In thousands)	
Term loan B	\$ 597,000	\$ 600,000
Term loan A	395,000	400,000
Deferred financing costs and original issue discount	(7,011)	(7,604)
Total debt	984,989	992,396
Less current maturities	(16,000)	(16,000)
Long-term debt	\$ 968,989	\$ 976,396

All borrowings under the credit facilities are subject to variable interest. The effective interest rate for the term loans was 3.62% and 2.29% at June 30, 2022 and December 31, 2021, respectively, and the weighted average interest rate was 2.56% and 2.50% for the six months ended June 30, 2022 and 2021, respectively, prior to the effects of any interest rate hedge arrangements. The weighted average interest rate for the revolving credit facility was 5.25% and 4.00% for the six months ended June 30, 2022 and 2021, respectively.

Term Loan B Facility

The seven-year term loan B matures on November 23, 2028 and requires quarterly principal payments equal to 1% per annum of the original aggregate principal amount of the term loan B, with the remaining principal balance due at maturity. Borrowings under the term loan B facility bear interest at a rate per annum of 1.25% over the base rate, or 2.25% over the eurocurrency rate. The eurocurrency rate is the one, three or six month LIBOR rate or, with applicable lender approval, the nine or twelve month or less than one month LIBOR rate, subject to an interest rate floor of 0.50%. The base rate is subject to an interest rate floor of 1.50%.

Term Loan A Facility

The five-year term loan A matures on November 23, 2026 and requires quarterly principal payments equal to 2.5% per annum of the original aggregate principal amount of the term loan A in each of the first three years, 5.0% in the fourth year, and 7.5% in the fifth year. The remaining principal balance is due at maturity. Borrowings under the term loan A facility bear interest at a rate per annum ranging from 0.50% to 0.75% over the base rate, subject to an interest rate floor of 1.00%, or 1.50% to 1.75% over the eurocurrency rate. The eurocurrency rate is the one, three or six month LIBOR rate or, with applicable lender approval, the nine or twelve month or less than one month LIBOR rate.

Revolving Credit Facility

The \$400 million multi-currency revolving credit facility matures on May 26, 2026. There were no borrowings outstanding on the revolving credit facility at both June 30, 2022 and December 31, 2021.

Borrowings under the revolving credit facility bear interest at a rate per annum ranging from 0.50% to 0.75% over the base rate, subject to an interest rate floor of 1.00%, or 1.50% to 1.75% over the eurocurrency rate.

Debt Covenants

All obligations under the senior secured credit facilities are secured by substantially all the assets of the Company's material U.S. subsidiaries. The senior secured credit facilities contain a number of covenants that, among other things and subject to certain exceptions, may restrict the ability of Bright Horizons Family Solutions LLC, the Company's wholly-owned subsidiary, and its restricted subsidiaries, to: incur liens; make investments, loans, advances and acquisitions; incur additional indebtedness or guarantees; pay dividends on capital stock or redeem, repurchase or retire capital stock or subordinated indebtedness; engage in transactions with affiliates; sell assets, including capital stock of the Company's subsidiaries; alter the business conducted; enter into agreements restricting the Company's subsidiaries' ability to pay dividends; and consolidate or merge.

In addition, the credit agreement governing the senior secured credit facilities requires Bright Horizons Capital Corp., the Company's direct subsidiary, to be a passive holding company, subject to certain exceptions. The term loan A and the revolving credit facility require Bright Horizons Family Solutions LLC, the borrower, and its restricted subsidiaries, to comply with a maximum first lien net leverage ratio not to exceed 4.25 to 1.00. A breach of the applicable covenant is subject to certain equity cure rights.

Future principal payments of long-term debt are as follows for the years ending December 31:

	Long-term debt	
	(In thousands)	
Remainder of 2022	\$	8,000
2023		16,000
2024		18,500
2025		28,500
2026		351,000
Thereafter		570,000
Total future principal payments	\$	992,000

Derivative Financial Instruments

The Company is subject to interest rate risk as all borrowings under the senior secured credit facilities are subject to variable interest rates. The Company's risk management policy permits using derivative instruments to manage interest rate and other risks. The Company uses interest rate swaps and caps to manage a portion of the risk related to changes in cash flows from interest rate movements. In June 2020, the Company entered into interest rate cap agreements with a total notional value of \$800 million, designated and accounted for as cash flow hedges from inception, to provide the Company with interest rate protection in the event the one-month LIBOR rate increases above 1%. Interest rate cap agreements for \$300 million notional value have an effective date of June 30, 2020 and expire on October 31, 2023, while interest rate cap agreements for another \$500 million notional amount have an effective date of October 29, 2021 and expire on October 31, 2023.

In December 2021, the Company entered into additional interest rate cap agreements with a total notional value of \$900 million designated and accounted for as cash flow hedges from inception. Interest rate cap agreements for \$600 million, which have a forward starting effective date of October 31, 2023 and expire on October 31, 2025, provide the Company with interest rate protection in the event the one-month LIBOR rate increases above 2.5%. Interest rate cap agreements for \$300 million, which have a forward starting effective date of October 31, 2023 and expire on October 31, 2026, provide the Company with interest rate protection in the event the one-month LIBOR rate increases above 3.0%.

During the six months ended June 30, 2022, the Company entered into foreign currency forward contracts in connection with an acquisition in Australia completed in July 2022. The Company entered into the foreign currency forwards to lock the purchase price in US dollars at closing and mitigate the impact of foreign currency fluctuations between signing of the definitive purchase agreement on May 3, 2022 and closing. The forward contracts have a total notional value of approximately AUD\$320 million, which included the expected payments for the purchase price and for letters of credit used to guarantee certain lease arrangements. The cash flows associated with the business combination do not meet the criteria to be designated and accounted for as a cash flow hedge and, as such, foreign currency gains and losses on these forwards are recorded on the consolidated statement of income. During the six months ended June 30, 2022, the Company recognized realized losses of \$4.6 million and unrealized losses of \$1.3 million in relation to these forwards due to fluctuations in the Australian dollar.

The fair value of the derivative financial instruments was as follows for the periods presented:

Derivative financial instruments	Consolidated balance sheet classification	June 30, 2022		December 31, 2021	
		(In thousands)			
Interest rate caps - asset	Other assets	\$	40,514	\$	8,809
Foreign currency forward contracts - liability	Other current liabilities	\$	(1,326)	\$	—

The effect of the derivative financial instruments on other comprehensive income (loss) was as follows:

Derivatives designated as cash flow hedging instruments	Amount of gain (loss) recognized in other comprehensive income (loss)	Consolidated statement of income classification	Amount of net gain (loss) reclassified into earnings	Total effect on other comprehensive income (loss)
	(In thousands)		(In thousands)	
Three months ended June 30, 2022				
Cash flow hedges	\$ 6,847	Interest expense — net	\$ (68)	\$ 6,915
Income tax effect	(1,828)	Income tax expense	18	(1,846)
Net of income taxes	<u>\$ 5,019</u>		<u>\$ (50)</u>	<u>\$ 5,069</u>
Three months ended June 30, 2021				
Cash flow hedges	\$ (138)	Interest expense — net	\$ (1,471)	\$ 1,333
Income tax effect	37	Income tax expense	393	(356)
Net of income taxes	<u>\$ (101)</u>		<u>\$ (1,078)</u>	<u>\$ 977</u>
Six months ended June 30, 2022				
Cash flow hedges	\$ 31,760	Interest expense — net	\$ (171)	\$ 31,931
Income tax effect	(8,480)	Income tax expense	(431)	(8,049)
Net of income taxes	<u>\$ 23,280</u>		<u>\$ (602)</u>	<u>\$ 23,882</u>
Six months ended June 30, 2021				
Cash flow hedges	\$ 840	Interest expense — net	\$ (2,921)	\$ 3,761
Income tax effect	(224)	Income tax expense	780	(1,004)
Net of income taxes	<u>\$ 616</u>		<u>\$ (2,141)</u>	<u>\$ 2,757</u>

During the next twelve months, the Company estimates that a net gain of \$16.2 million, pre-tax, will be reclassified from accumulated other comprehensive income (loss) and recorded as a reduction to interest expense related to these derivative financial instruments.

7. EARNINGS PER SHARE

The following tables set forth the computation of basic and diluted earnings per share using the two-class method:

	Three months ended June 30,		Six months ended June 30,	
	2022	2021	2022	2021
(In thousands, except share data)				
Basic earnings per share:				
Net income	\$ 24,945	\$ 18,815	\$ 44,351	\$ 25,947
Allocation of net income to common stockholders:				
Common stock	\$ 24,840	\$ 18,733	\$ 44,164	\$ 25,838
Unvested participating shares	105	82	187	109
Net income	\$ 24,945	\$ 18,815	\$ 44,351	\$ 25,947
Weighted average common shares outstanding:				
Common stock	59,113,044	60,551,528	59,103,884	60,573,237
Unvested participating shares	248,969	263,957	249,684	249,571
Earnings per common share:				
Common stock	\$ 0.42	\$ 0.31	\$ 0.75	\$ 0.43

	Three months ended June 30,		Six months ended June 30,	
	2022	2021	2022	2021
(In thousands, except share data)				
Diluted earnings per share:				
Earnings allocated to common stock	\$ 24,840	\$ 18,733	\$ 44,164	\$ 25,838
Plus: earnings allocated to unvested participating shares	105	82	187	109
Less: adjusted earnings allocated to unvested participating shares	(104)	(81)	(186)	(108)
Earnings allocated to common stock	\$ 24,841	\$ 18,734	\$ 44,165	\$ 25,839
Weighted average common shares outstanding:				
Common stock	59,113,044	60,551,528	59,103,884	60,573,237
Effect of dilutive securities	139,825	555,264	230,223	643,146
Weighted average common shares outstanding — diluted	59,252,869	61,106,792	59,334,107	61,216,383
Earnings per common share:				
Common stock	\$ 0.42	\$ 0.31	\$ 0.74	\$ 0.42

Options outstanding to purchase 2.0 million and 1.0 million shares of common stock were excluded from diluted earnings per share for the three months ended June 30, 2022 and 2021, respectively, and 1.6 million and 0.9 million shares of common stock were excluded for the six months ended June 30, 2022 and 2021, respectively, since their effect was anti-dilutive. These options may become dilutive in the future.

8. INCOME TAXES

The Company's effective income tax rates were 26.6% and 23.0% for the three months ended June 30, 2022 and 2021, respectively and 23.6% and 10.9% for the six months ended June 30, 2022 and 2021, respectively. The effective income tax rate may fluctuate from quarter to quarter for various reasons, including changes to income before income tax, jurisdictional mix of income before income tax, valuation allowances, jurisdictional income tax rate changes, as well as discrete items such as the settlement of foreign, federal and state tax issues and the effects of excess tax benefits associated with the exercise of stock options and vesting of restricted stock, which is included as a reduction of tax expense. During the three and six months ended June 30, 2022, the excess tax benefit from stock-based compensation expense decreased tax expense by \$0.7 million and \$2.7 million, respectively. During the three and six months ended June 30, 2021, the excess tax benefit from stock-based compensation expense decreased tax expense by \$1.2 million and \$5.1 million, respectively. For the three and six months ended June 30, 2022 and 2021, prior to the inclusion of the excess tax benefit and other discrete items, the effective income tax rate approximated 28%.

The Company's unrecognized tax benefits were \$4.2 million at June 30, 2022 and \$3.9 million at December 31, 2021, inclusive of interest. The Company expects the unrecognized tax benefits to change over the next twelve months if certain tax matters settle with the applicable taxing jurisdiction during this time frame, or, if the applicable statute of limitations lapses. The impact of the amount of such changes to previously recorded uncertain tax positions could range from zero to \$0.5 million.

The Company and its domestic subsidiaries are subject to U.S. federal income tax as well as tax in multiple state jurisdictions. U.S. federal income tax returns are typically subject to examination by the Internal Revenue Service ("IRS") and the statute of limitations for federal tax returns is three years. The Company's filings for the tax years 2018 through 2020 are subject to audit based upon the federal statute of limitations.

State income tax returns are generally subject to examination for a period of three to four years after filing of the respective return. The state impact of any federal changes remains subject to examination by various states for a period of up to one year after formal notification to the states. As of June 30, 2022, there was one income tax audit in process and the tax years from 2017 to 2020 are subject to audit.

The Company is also subject to corporate income tax for its subsidiaries located in the United Kingdom, the Netherlands, India, Ireland, and Puerto Rico. The tax returns for the Company's subsidiaries located in foreign jurisdictions are subject to examination for periods ranging from one to five years.

9. FAIR VALUE MEASUREMENTS

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value measurements are classified using a three-level hierarchy, which prioritizes the inputs used to measure fair value into three levels and bases the categorization within the hierarchy upon the lowest level of input that is available and significant to the fair value measurement. The hierarchy gives the highest priority to observable inputs such as unadjusted quoted prices in active markets for identical assets or liabilities and the lowest priority to unobservable inputs. The Company uses observable inputs where relevant and whenever possible. The three levels of the hierarchy are defined as follows:

Level 1 — Fair value is derived using quoted prices from active markets for identical instruments.

Level 2 — Fair value is derived using quoted prices for similar instruments from active markets or for identical or similar instruments in markets that are not active; or, fair value is based on model-derived valuations in which all significant inputs and significant value drivers are observable from active markets.

Level 3 — Fair value is derived from valuation techniques in which one or more significant inputs or significant value drivers are unobservable.

The carrying value of cash and cash equivalents, restricted cash, accounts receivable, and accounts payable and accrued expenses approximates their fair value because of their short-term nature.

Financial instruments that potentially expose the Company to concentrations of credit risk consisted mainly of cash and accounts receivable. The Company mitigates its exposure by maintaining its cash in financial institutions of high credit standing. The Company's accounts receivable is derived primarily from the services it provides, and the related credit risk is dispersed across many clients in various industries with no single client accounting for more than 10% of the Company's net revenue or accounts receivable. No significant credit concentration risk existed at June 30, 2022.

Long-term Debt — The Company's long-term debt is recorded at adjusted cost, net of original issue discounts and deferred financing costs. The fair value of the Company's long-term debt is based on current bid prices or prices for similar instruments from active markets. As such, the Company's long-term debt was classified as Level 2. As of June 30, 2022, the carrying value and estimated fair value of long-term debt was \$992.0 million and \$963.6 million, respectively. As of December 31, 2021, the estimated fair value approximated the carrying value of long-term debt.

Derivative Financial Instruments — The Company’s interest rate cap agreements are recorded at fair value and estimated using market-standard valuation models. Such models project future cash flows and discount the future amounts to a present value using market-based observable inputs. Additionally, the fair value of the interest rate caps included consideration of credit risk. The Company used a potential future exposure model to estimate this credit valuation adjustment (“CVA”). The inputs to the CVA were largely based on observable market data, with the exception of certain assumptions regarding credit worthiness. As the magnitude of the CVA was not a significant component of the fair value of the interest rate caps, it was not considered a significant input. The fair value of the interest rate caps are classified as Level 2. As of June 30, 2022 and December 31, 2021, the fair value of the interest rate cap agreements was \$40.5 million and \$8.8 million, respectively, which was recorded in other assets on the consolidated balance sheet.

The Company's foreign currency forward contracts are recorded at fair value based on the foreign currency exchange rates in effect at the end of the reporting period. During the six months ended June 30, 2022, the Company recognized realized losses of \$4.6 million and unrealized losses of \$1.3 million in relation to these forwards due to fluctuations in the Australian dollar.

Debt Securities — The Company’s investments in debt securities, which are classified as available-for-sale, consist of U.S. Treasury and U.S. government agency securities and certificates of deposit. These securities are held in escrow by the Company’s wholly-owned captive insurance company and were purchased with restricted cash. As such, these securities are not available to fund the Company’s operations. These securities are recorded at fair value using quoted prices available in active markets and are classified as Level 1. As of June 30, 2022, the fair value of the available-for-sale debt securities was \$26.6 million and was classified based on the instruments’ maturity dates, with \$22.9 million included in prepaid expenses and other current assets and \$3.7 million in other assets on the consolidated balance sheet. As of December 31, 2021, the fair value of the available-for-sale debt securities was \$29.9 million, with \$22.7 million included in prepaid expenses and other current assets and \$7.2 million in other assets on the consolidated balance sheet. At June 30, 2022 and December 31, 2021, the amortized cost was \$26.9 million and \$30.0 million, respectively. The debt securities held at June 30, 2022 had remaining maturities ranging from less than one year to approximately 1.5 years. Unrealized gains and losses, net of tax, on available-for-sale debt securities were immaterial for the three and six months ended June 30, 2022 and 2021.

Liabilities for Contingent Consideration — The Company is subject to contingent consideration arrangements in connection with certain business combinations. Liabilities for contingent consideration are measured at fair value each reporting period, with the acquisition-date fair value included as part of the consideration payable for the related business combination and subsequent changes in fair value recorded to selling, general and administrative expenses on the Company’s consolidated statement of income. The fair value of contingent consideration was generally calculated using customary valuation models based on probability-weighted outcomes of meeting certain future performance targets and forecasted results. The key inputs to the valuations are the projections of future financial results in relation to the businesses and the company-specific discount rates. The Company classified the contingent consideration liabilities as a Level 3 fair value measurement due to the lack of observable inputs used in the model. During the six months ended June 30, 2022, contingent consideration liabilities of \$19.3 million were paid related to acquisitions completed in 2019 and 2021. The contingent consideration liabilities outstanding as of June 30, 2022 related to 2021 acquisitions. See Note 4, *Acquisitions*, for additional information.

The following table provides a roll forward of the recurring Level 3 fair value measurements:

	Six months ended June 30, 2022
	(In thousands)
Balance at January 1, 2022	\$ 27,474
Settlement of contingent consideration liabilities	(19,250)
Changes in fair value	523
Foreign currency translation	(532)
Balance at June 30, 2022	<u>\$ 8,215</u>

10. ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS)

Accumulated other comprehensive income (loss), which is included as a component of stockholders’ equity, is comprised of foreign currency translation adjustments and unrealized gains (losses) on cash flow hedges and investments, net of tax.

The changes in accumulated other comprehensive income (loss) by component were as follows:

	Six months ended June 30, 2022			
	Foreign currency translation adjustments (1)	Unrealized gain (loss) on cash flow hedges	Unrealized gain (loss) on investments	Total
	(In thousands)			
Balance at January 1, 2022	\$ (38,073)	\$ 738	\$ (24)	\$ (37,359)
Other comprehensive income (loss) before reclassifications — net of tax	(63,351)	23,280	(175)	(40,246)
Less: amounts reclassified from accumulated other comprehensive income (loss) — net of tax	—	(602)	—	(602)
Net other comprehensive income (loss)	(63,351)	23,882	(175)	(39,644)
Balance at June 30, 2022	\$ (101,424)	\$ 24,620	\$ (199)	\$ (77,003)

	Six months ended June 30, 2021			
	Foreign currency translation adjustments (1)	Unrealized gain (loss) on cash flow hedges	Unrealized gain (loss) on investments	Total
	(In thousands)			
Balance at January 1, 2021	\$ (22,332)	\$ (4,785)	\$ 48	\$ (27,069)
Other comprehensive income (loss) before reclassifications — net of tax	1,086	616	(41)	1,661
Less: amounts reclassified from accumulated other comprehensive income (loss) — net of tax	387	(2,141)	—	(1,754)
Net other comprehensive income (loss)	699	2,757	(41)	3,415
Balance at June 30, 2021	\$ (21,633)	\$ (2,028)	\$ 7	\$ (23,654)

(1) Taxes are not provided for the currency translation adjustments related to the undistributed earnings of foreign subsidiaries that are intended to be indefinitely reinvested.

11. SEGMENT INFORMATION

The Company's reportable segments are comprised of (1) full service center-based child care, (2) back-up care, and (3) educational advisory and other services. The full service center-based child care segment includes the traditional center-based early education and child care, preschool, and elementary education. The Company's back-up care segment consists of center-based back-up child care, in-home care for children and adult/elder dependents, school-age camps, virtual tutoring, and self-sourced reimbursed care. The Company's educational advisory and other services segment consists of tuition assistance and student loan repayment program administration, workforce education, related educational advising, college admissions advisory services, and an online marketplace for families and caregivers, which have been aggregated. The Company and its chief operating decision maker evaluate performance based on revenue and income from operations. Intercompany activity is eliminated in the segment results. The assets and liabilities of the Company are managed centrally and are reported internally in the same manner as the consolidated financial statements; therefore, no segment asset information is produced or included herein.

Revenue and income (loss) from operations by reportable segment were as follows:

	Full service center-based child care		Back-up care		Educational advisory and other services		Total
(In thousands)							
Three months ended June 30, 2022							
Revenue	\$ 371,316	\$	91,714	\$	27,311	\$	490,341
Income from operations ⁽¹⁾	19,722		25,119		2,981		47,822
Three months ended June 30, 2021							
Revenue	\$ 334,427	\$	81,484	\$	25,567	\$	441,478
Income from operations	4,062		24,769		5,181		34,012

(1) For the three months ended June 30, 2022, income from operations included \$2.5 million of transaction costs related to acquisitions which was allocated to the full service center-based child care segment.

	Full service center-based child care		Back-up care		Educational advisory and other services		Total
(In thousands)							
Six months ended June 30, 2022							
Revenue	\$ 725,248	\$	172,558	\$	52,944	\$	950,750
Income from operations ⁽¹⁾	26,883		45,577		6,526		78,986
Six months ended June 30, 2021							
Revenue	\$ 624,746	\$	157,839	\$	49,733	\$	832,318
Income (loss) from operations	(13,905)		51,959		9,666		47,720

(1) For the six months ended June 30, 2022, income from operations included \$2.5 million of transaction costs related to acquisitions which was allocated to the full service center-based child care segment.

12. SUBSEQUENT EVENT

On July 1, 2022, the Company, through wholly-owned subsidiaries, completed the acquisition of the outstanding shares of Only About Children, a child care operator in Australia, for aggregate consideration of AUD\$450 million. The Company paid approximately AUD\$300 million (USD\$207 million), net of cash acquired, and subject to customary purchase price adjustments, and will pay an additional USD\$106.5 million 18 months after closing. The initial purchase price was financed with cash on hand. The Company is in the process of completing its preliminary purchase accounting and the allocation of the consideration paid to the acquired assets and assumed liabilities and therefore no additional information is available. Only About Children operates approximately 75 centers in Australia.

Item 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations

Special Note Regarding Forward-Looking Statements

This Quarterly Report on Form 10-Q includes statements that express our opinions, expectations, beliefs, plans, objectives, assumptions or projections regarding future events or future results and therefore are, or may be deemed to be, “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995 (the “Act”). The following cautionary statements are being made pursuant to the provisions of the Act and with the intention of obtaining the benefits of the “safe harbor” provisions of the Act. These forward-looking statements can generally be identified by the use of forward-looking terminology, including the terms “believes,” “expects,” “may,” “will,” “should,” “seeks,” “projects,” “approximately,” “intends,” “plans,” “estimates” or “anticipates,” or, in each case, their negatives or other variations or comparable terminology. These forward-looking statements include all matters that are not historical facts. They appear in a number of places throughout this Quarterly Report and include statements regarding our intentions, beliefs or current expectations concerning, among other things, our results of operations; financial condition and liquidity; the impact of the ongoing COVID-19 pandemic and government responses thereto on our operations; the continued operation of currently open centers, timing to re-enroll and re-ramp centers as well as certain back-up care services and use types; enrollment recovery and occupancy improvement; our cost management and capital spending; labor costs and investments in employees and wages; future labor rates and labor markets for teachers and staff; continued contributions from our back-up care segment; access to and impact of government relief and support programs; pricing strategies; leases; ability to respond to changing market conditions; our growth; our strategies; ability to regain and sustain business and strategic growth priorities; demand for services; our value proposition, client relations and partnerships; macroeconomic trends; investments in user experience and service delivery; the impact of accounting principles, pronouncements and policies; impact of the Only About Children acquisition; acquisitions and expected synergies; our fair value estimates; impairment losses; goodwill from business combinations; estimates and impact of equity transactions; unrecognized tax benefits and the impact of uncertain tax positions; our effective tax rate; the outcome of tax audits, settlements and tax liabilities; future impact of excess tax benefits; the impact of foreign currency exchange rates; our share repurchase program; the outcome of litigation, legal proceedings and our insurance coverage; debt securities, our interest rate caps, interest rates and projections; interest expense, the use of derivatives or other market risk sensitive instruments, our indebtedness; borrowings under our senior secured credit facilities, the need for additional debt or equity financing, and our ability to obtain such financing; our sources and uses of cash flow; our ability to fund operations and make capital expenditures and payments with cash and cash equivalents and borrowings; and our ability to meet financial obligations and comply with covenants of our senior secured credit facilities.

By their nature, forward-looking statements involve risks and uncertainties because they relate to events and depend on circumstances that may or may not occur in the future. We believe that these risks and uncertainties include, but are not limited to, those disclosed in our Annual Report on Form 10-K for the year ended December 31, 2021, including with respect to the ongoing impacts from the COVID-19 pandemic, as well as other factors disclosed from time to time in our other filings with the SEC.

Although we base these forward-looking statements on assumptions that we believe are reasonable when made, we caution that forward-looking statements are not guarantees of future performance and that our actual results of operations, financial condition and liquidity, and the development of the industry in which we operate may differ materially from those made in or suggested by the forward-looking statements contained in this Quarterly Report. In addition, even if our results of operations, financial condition and liquidity, and the development of the industry in which we operate, are consistent with the forward-looking statements contained in this Quarterly Report, those results or developments may not be indicative of results or developments in subsequent periods.

Given these risks and uncertainties, you are cautioned not to place undue reliance on these forward-looking statements. Any forward-looking statement that we make in this Quarterly Report speaks only as of the date of such statement, and we undertake no obligation to update any forward-looking statements or to publicly announce the results of any revisions to any of those statements to reflect future events or developments, except as required by law.

Overview

The following is a discussion of the significant factors affecting the consolidated operating results, financial condition, liquidity and cash flows of Bright Horizons Family Solutions Inc. (“we” or the “Company”) for the three and six months ended June 30, 2022, as compared to the three and six months ended June 30, 2021. This discussion should be read in conjunction with Management’s Discussion and Analysis of Financial Condition and Results of Operations and the Consolidated Financial Statements and Notes thereto included in our Annual Report on Form 10-K for the year ended December 31, 2021.

We are a leading provider of high-quality education and care, including early education and child care, back-up and family care solutions, and workforce education services that are designed to help families, employers and their employees solve the challenges of the modern workforce and thrive personally and professionally. We provide services primarily under multi-year contracts with employers who offer early education and child care, back-up care, and educational advisory and other services as part of their employee benefits packages in an effort to support employees across life and career stages and to improve recruitment, employee engagement, productivity, retention and career advancement. As of June 30, 2022, we had more than 1,350 client relationships with employers across a diverse array of industries, including more than 200 Fortune 500 companies and more than 80 of *Working Mother* magazine's 2021 "100 Best Companies."

At June 30, 2022, we operated 1,014 early education and child care centers and had the capacity to serve approximately 114,000 children and their families in the United States, the United Kingdom, the Netherlands, and India. At June 30, 2022, 992, or 98%, of our child care centers were open.

Our reportable segments are comprised of (1) full service center-based child care, (2) back-up care, and (3) educational advisory and other services. Full service center-based child care includes the traditional center-based early education and child care, preschool, and elementary education. Back-up care consists of center-based back-up child care, in-home care for children and adult/elder dependents, school-age camps, virtual tutoring, and self-sourced reimbursed care. Educational advisory and other services includes tuition assistance and student loan repayment program administration, workforce education, related educational advising, college admissions advisory services, and an online marketplace for families and caregivers.

Since March 2020, our global operations have been significantly impacted by the COVID-19 pandemic and the measures undertaken in response thereto. During the early stages of the pandemic, most of our child care centers were temporarily closed. We responded by quickly adapting to the changing environment and focusing on health and safety, supporting clients and their essential frontline workers and pivoting to expand back-up care solutions for clients and employees to meet the surge in need and demand. While nearly all of our centers have subsequently re-opened, we continue to be impacted by the ongoing effects of COVID-19, including the resurgence of infections and variants of the virus, which have impacted center enrollment, back-up care use and the speed of our recovery, and by the challenges of managing precautionary and preventative measures such as vaccination and masking mandates, virus exposures affecting our staff and families who attend our centers, and disrupted staff availability.

We will continue to monitor and respond to the changing conditions, challenges and disruptions resulting from the COVID-19 pandemic, and the changing needs of clients, families and children, while remaining focused on our strategic priorities to deliver high quality education and care services, connect across our service lines, extend our impact on new customers and clients, and preserve our strong culture. We have executed a number of strategic actions to strengthen our client partnerships and our employee value proposition to better position us as the service provider and employer of choice in our industry. As the early education industry continues to be impacted by a challenging labor market, we continue to invest, and expect to make future investments, in our employees and build on what makes us an employer of choice. We have enhanced compensation and expanded employee benefits, increased the child care tuition subsidy, enhanced our mental health and wellness resources, and continue to champion for early educators through our Horizons Teacher Degree Program, where our employees can earn an associate or bachelor's degree in early childhood education at no-cost.

It remains difficult to predict the full impact of the pandemic and eventual recovery, but we remain committed to families, clients and our employees. We remain confident in our value proposition, business model, the strength of our client partnerships, the strength of our balance sheet and liquidity position, and our ability to continue to respond to changing market conditions. Our ability to fully return to the operating income levels at which we operated prior to COVID-19, and to continue to increase operating income in the future will depend upon our ability to continue to regain and sustain the following characteristics of our business and our strategic growth priorities:

- maintenance and incremental growth of enrollment in our mature and ramping centers, and cost management in response to changes in enrollment in our centers;
- effective pricing strategies, including tuition increases that correlate with expected increases in personnel costs, including wages and benefits, and additional pricing actions to accommodate higher operating costs and the impact of persistent inflation;
- additional growth in expanded service offerings and cross-selling of services to clients;
- successful identification and integration of acquisitions and transitions of management of centers; and
- successful management and improvement of underperforming centers.

On July 1, 2022, we completed the acquisition of the outstanding shares of Only About Children (“OAC”), a high-quality operator of early education and child care centers in Australia, for aggregate consideration of AUD\$450 million. We paid approximately AUD\$300 million (USD\$207 million), net of cash acquired, and will pay an additional USD\$106.5 million 18 months after closing. The initial purchase price was financed with cash on hand. OAC operates approximately 75 centers in Australia.

Results of Operations

The following table sets forth statement of income data as a percentage of revenue for the three months ended June 30, 2022 and 2021:

	Three Months Ended June 30,			
	2022	%	2021	%
	(In thousands, except percentages)			
Revenue	\$ 490,341	100.0 %	\$ 441,478	100.0 %
Cost of services	361,816	73.8 %	335,496	76.0 %
Gross profit	128,525	26.2 %	105,982	24.0 %
Selling, general and administrative expenses	73,673	15.0 %	64,458	14.6 %
Amortization of intangible assets	7,030	1.4 %	7,512	1.7 %
Income from operations	47,822	9.8 %	34,012	7.7 %
Loss on foreign currency forward contracts	(5,917)	(1.2)%	—	— %
Interest expense — net	(7,942)	(1.7)%	(9,580)	(2.2)%
Income before income tax	33,963	6.9 %	24,432	5.5 %
Income tax expense	(9,018)	(1.8)%	(5,617)	(1.2)%
Net income	\$ 24,945	5.1 %	\$ 18,815	4.3 %
Adjusted EBITDA ⁽¹⁾	\$ 83,076	16.9 %	\$ 67,951	15.4 %
Adjusted income from operations ⁽¹⁾	\$ 50,319	10.3 %	\$ 34,012	7.7 %
Adjusted net income ⁽¹⁾	\$ 42,113	8.6 %	\$ 29,841	6.8 %

(1) Adjusted EBITDA, adjusted income from operations and adjusted net income are non-GAAP financial measures and are not determined in accordance with accounting principles generally accepted in the United States (“GAAP”). Refer to “Non-GAAP Financial Measures and Reconciliation” below for a reconciliation of these non-GAAP financial measures to their respective measures determined under GAAP and for information regarding our use of non-GAAP financial measures.

The following table sets forth statement of income data as a percentage of revenue for the six months ended June 30, 2022 and 2021:

	Six Months Ended June 30,			
	2022	%	2021	%
	(In thousands, except percentages)			
Revenue	\$ 950,750	100.0 %	\$ 832,318	100.0 %
Cost of services	712,166	74.9 %	644,978	77.5 %
Gross profit	238,584	25.1 %	187,340	22.5 %
Selling, general and administrative expenses	145,419	15.3 %	124,568	15.0 %
Amortization of intangible assets	14,179	1.5 %	15,052	1.8 %
Income from operations	78,986	8.3 %	47,720	5.7 %
Loss on foreign currency forward contracts	(5,917)	(0.6)%	—	— %
Interest expense — net	(14,988)	(1.6)%	(18,596)	(2.2)%
Income before income tax	58,081	6.1 %	29,124	3.5 %
Income tax expense	(13,730)	(1.4)%	(3,177)	(0.4)%
Net income	\$ 44,351	4.7 %	\$ 25,947	3.1 %
Adjusted EBITDA ⁽¹⁾	\$ 145,912	15.3 %	\$ 114,247	13.7 %
Adjusted income from operations ⁽¹⁾	\$ 81,483	8.6 %	\$ 47,720	5.7 %
Adjusted net income ⁽¹⁾	\$ 69,836	7.3 %	\$ 43,696	5.2 %

(1) Adjusted EBITDA, adjusted income from operations and adjusted net income are non-GAAP financial measures and are not determined in accordance with accounting principles generally accepted in the United States (“GAAP”). Refer to “Non-GAAP Financial Measures and Reconciliation” below for a reconciliation of these non-GAAP financial measures to their respective measures determined under GAAP and for information regarding our use of non-GAAP financial measures.

Three Months Ended June 30, 2022 Compared to the Three Months Ended June 30, 2021

Revenue. Revenue increased by \$48.9 million, or 11%, to \$490.3 million for the three months ended June 30, 2022 from \$441.5 million for the same period in 2021. The following table summarizes the revenue and percentage of total revenue for each of our segments for the three months ended June 30, 2022 and 2021:

	Three Months Ended June 30,				Change 2022 vs 2021	
	2022		2021			
	(In thousands, except percentages)					
Full-service center-based child care	\$ 371,316	75.7 %	\$ 334,427	75.7 %	\$ 36,889	11.0 %
<i>Tuition</i>	336,884	90.7 %	298,065	89.1 %	38,819	13.0 %
<i>Management fees and operating subsidies</i>	34,432	9.3 %	36,362	10.9 %	(1,930)	(5.3)%
Back-up care	91,714	18.7 %	81,484	18.5 %	10,230	12.6 %
Educational advisory and other services	27,311	5.6 %	25,567	5.8 %	1,744	6.8 %
Total revenue	\$ 490,341	100.0 %	\$ 441,478	100.0 %	\$ 48,863	11.1 %

Revenue generated by the full service center-based child care segment in the three months ended June 30, 2022 increased by \$36.9 million, or 11%, when compared to the same period in 2021. Revenue growth in this segment was primarily attributable to enrollment increases in our open child care centers and from the re-opening of our temporarily closed centers. Tuition revenue increased by \$38.8 million, or 13%, when compared to the prior year, on a 16% increase in enrollment. While enrollment in our centers continues to improve, our centers continue to operate below pre-COVID-19 enrollment levels as the ongoing disruption of the pandemic and labor market challenges have slowed the recovery and impacted occupancy levels. We expect continued occupancy improvement throughout 2022 and into 2023. Additionally, during the three months ended June 30, 2022, \$1.4 million was received from government programs related to tuition support and was recorded to revenue. Lower foreign currency exchange rates for our United Kingdom and Netherlands operations partially offset our revenue growth, which decreased 2022 tuition revenue by approximately 4%, or \$12.6 million. Management fees and operating subsidies from employer sponsors decreased by \$1.9 million, or 5%, primarily due to funding received from government support programs that reduced certain center operating costs, which impacted the related operating subsidies. During the three months ended June 30, 2022 and 2021, funding received from government support programs of \$6.5 million and \$2.8 million, respectively, reduced the operating subsidy revenue due from employers.

Revenue generated by back-up care services in the three months ended June 30, 2022 increased by \$10.2 million, or 13%, when compared to the same period in 2021. Revenue growth in the back-up care segment was primarily attributable to expanded sales to new clients, increased utilization of center-based and in-home back-up care from new and existing clients, and contributions from our various back-up use types.

Revenue generated by educational advisory and other services in the three months ended June 30, 2022 increased by \$1.7 million, or 7%, when compared to the same period in the prior year. Revenue growth in this segment was primarily attributable to contributions from sales to new clients and increased utilization from existing clients.

Cost of Services. Cost of services increased by \$26.3 million, or 8%, to \$361.8 million for the three months ended June 30, 2022 from \$335.5 million for the same period in 2021.

Cost of services in the full service center-based child care segment increased by \$16.8 million, or 6%, to \$297.3 million in the three months ended June 30, 2022 when compared to the same period in 2021. The increase in cost of services was primarily associated with the enrollment increase in our centers and the re-opening of our temporarily closed centers. Personnel costs, which generally represent 70% of the costs for this segment, increased 8% primarily in connection with the enrollment growth at our centers. Funding received from government support programs reduced center operating expenses by \$21.4 million in the second quarter of 2022, compared to \$7.4 million in government funding received in the second quarter of 2021. As noted above, a portion of the funding received from government support programs reduced the operating costs in certain employer-sponsored centers, which in turn reduced the operating subsidy revenue due from employers for the related child care centers by \$6.5 million and \$2.8 million in the three months ended June 30, 2022 and 2021, respectively.

Cost of services in the back-up care segment increased by \$8.2 million, or 19%, to \$50.7 million in the three months ended June 30, 2022, when compared to the prior year. The increase in cost of services is associated with the effects of a change in the revenue mix and the return to higher levels of center-based and in-home back-up care use in 2022 compared to more significant self-sourced reimbursed care in the prior year period. The increase in cost of services included increased care provider fees generated by the increase in utilization levels of center-based and in-home back-up care over the prior year, and continued investment in personnel, marketing and technology to support our customer user experience and service delivery.

Cost of services in the educational advisory and other services segment increased by \$1.3 million, or 10%, to \$13.8 million in the three months ended June 30, 2022 when compared to the prior year, which is broadly consistent with the revenue growth. The increase was primarily due to personnel costs related to delivering services to the expanding customer base.

Gross Profit. Gross profit increased by \$22.5 million, or 21%, to \$128.5 million for the three months ended June 30, 2022 from \$106.0 million for the same period in 2021. Gross profit margin was 26% of revenue for the three months ended June 30, 2022, an increase of approximately 2% compared to the three months ended June 30, 2021. The increase was primarily due to improved margins in the full service center-based child care segment from enrollment increases at open child care centers and from the re-opening of temporarily closed centers.

Selling, General and Administrative Expenses (“SGA”). SGA increased by \$9.2 million, or 14%, to \$73.7 million for the three months ended June 30, 2022 from \$64.5 million for the same period in 2021, in order to support the business as it continues to re-ramp. SGA was 15.0% of revenue for the three months ended June 30, 2022, generally consistent with the same period in 2021.

Amortization of Intangible Assets. Amortization expense on intangible assets was \$7.0 million for the three months ended June 30, 2022, a decrease from \$7.5 million for the three months ended June 30, 2021, due to the use of the accelerated method of amortization for certain intangible assets and decreases from intangible assets becoming fully amortized during the period, partially offset by increases from the acquisitions completed in 2021.

Income from Operations. Income from operations increased by \$13.8 million, or 41%, to \$47.8 million for the three months ended June 30, 2022 when compared to the prior year. The following table summarizes income from operations and percentage of revenue for each of our segments for the three months ended June 30, 2022 and 2021:

	Three Months Ended June 30,					
	2022		2021		Change 2022 vs 2021	
	(In thousands, except percentages)					
Full-service center-based child care	\$ 19,722	5.3 %	\$ 4,062	1.2 %	\$ 15,660	385.5 %
Back-up care	25,119	27.4 %	24,769	30.4 %	350	1.4 %
Educational advisory and other services	2,981	10.9 %	5,181	20.3 %	(2,200)	(42.5)%
Income from operations	\$ 47,822	9.8 %	\$ 34,012	7.7 %	\$ 13,810	40.6 %

The increase in income from operations was due to the following:

- Income from operations for the full service center-based child care segment increased \$15.7 million, or 386%, in the three months ended June 30, 2022 when compared to the same period in 2021 primarily due to increases in tuition revenue from enrollment growth in our open centers and the re-opening of temporarily closed centers, as well as incremental net contributions of approximately \$12 million from government support programs that primarily reduced certain operating expenses.
- Income from operations for the back-up care segment increased \$0.4 million, or 1%, in the three months ended June 30, 2022 when compared to the same period in 2021, as the service delivery mix continues to shift back towards pre-COVID-19 levels, with increasing utilization of traditional in-home and center-based back-up care and a decrease in self-sourced reimbursed care compared to the prior year.
- Income from operations for the educational advisory and other services segment decreased \$2.2 million, or 42%, in the three months ended June 30, 2022 when compared to the same period in 2021 due to investments in personnel, marketing and technology to support the growth of the segment.

Loss on Foreign Currency Forward Contracts. During the three months ended June 30, 2022, in connection with the acquisition in Australia completed in July 2022, we entered into foreign currency forward contracts with a total notional value of approximately AUD\$320 million, which included the expected payments for the purchase price and for letters of credit used to guarantee certain lease arrangements, to mitigate the impact of foreign currency fluctuations between signing of the definitive purchase agreement on May 3, 2022 and closing. The cash flows associated with the business combination do not meet the criteria to be designated and accounted for as cash flow hedges and as such, foreign currency gains and losses are recorded on the consolidated statement of income. During the three months ended June 30, 2022, we recognized realized and unrealized losses of \$5.9 million in relation to these forward contracts due to fluctuations in the Australian dollar.

Net Interest Expense. Net interest expense decreased to \$7.9 million for the three months ended June 30, 2022 from \$9.6 million for the same period in 2021 due to decreases in the outstanding debt as a result of the November 2021 debt refinance as well as a decrease in the interest rates applicable to our debt. The weighted average interest rate for the term loans and revolving credit facility was 2.76% for three months ended June 30, 2022 and 3.06% for the three months ended June 30, 2021, inclusive of the effects of the interest rate swap arrangements prior to their maturity on October 31, 2021. Based on our current interest rate projections, we estimate that our overall weighted average interest rate will approximate 3.5% for the remainder of 2022.

Income Tax Expense. We recorded income tax expense of \$9.0 million during the three months ended June 30, 2022, at an effective income tax rate of 27%, compared to an income tax expense of \$5.6 million during the three months ended June 30, 2021, at an effective income tax rate of 23%. The difference between the effective income tax rate as compared to the statutory income tax rate was primarily due to the effects of excess tax benefits associated with the exercise of stock options and vesting of restricted stock, which had a more significant impact to the effective tax rate for 2021 due to the lower income before income tax and higher excess tax benefits. The effective income tax rate may fluctuate from quarter to quarter for various reasons, including changes to income before income tax, jurisdictional mix of income before income tax, valuation allowances, jurisdictional income tax rate changes, as well as discrete items such as the settlement of foreign, federal and state tax matters and the effects of excess tax benefits associated with the exercise of stock options and vesting of restricted stock. During the three months ended June 30, 2022 and 2021, the excess tax benefits reduced income tax expense by \$0.7 million and \$1.2 million, respectively. The effective income tax rate prior to the inclusion of the excess tax benefits from stock-based compensation and other discrete items was approximately 28% for the three months ended June 30, 2022 and 2021.

Adjusted EBITDA and Adjusted Income from Operations. Adjusted EBITDA and adjusted income from operations increased \$15.1 million, or 22%, and \$16.3 million, or 48%, respectively, for the three months ended June 30, 2022 over the comparable period in 2021 primarily as a result of the increase in gross profit in the full service center-based child care segment.

Adjusted Net Income. Adjusted net income increased \$12.3 million, or 41%, for the three months ended June 30, 2022 when compared to the same period in 2021, primarily due to the increase in income from operations, partially offset by a higher effective tax rate.

Six Months Ended June 30, 2022 Compared to the Six Months Ended June 30, 2021

Revenue. Revenue increased by \$118.4 million, or 14%, to \$1.0 billion for the six months ended June 30, 2022 from \$0.8 billion for the same period in 2021. The following table summarizes the revenue and percentage of total revenue for each of our segments for the six months ended June 30, 2022 and 2021:

	Six Months Ended June 30,				Change 2022 vs 2021	
	2022		2021			
	(In thousands, except percentages)					
Full-service center-based child care	\$ 725,248	76.3 %	\$ 624,746	75.0 %	\$ 100,502	16.1 %
<i>Tuition</i>	657,106	90.6 %	548,317	87.8 %	108,789	19.8 %
<i>Management fees and operating subsidies</i>	68,142	9.4 %	76,429	12.2 %	(8,287)	(10.8) %
Back-up care	172,558	18.1 %	157,839	19.0 %	14,719	9.3 %
Educational advisory and other services	52,944	5.6 %	49,733	6.0 %	3,211	6.5 %
Total revenue	\$ 950,750	100.0 %	\$ 832,318	100.0 %	\$ 118,432	14.2 %

Revenue generated by the full service center-based child care segment in the six months ended June 30, 2022 increased by \$100.5 million, or 16%, when compared to the same period in 2021. Revenue growth in this segment was attributable to enrollment increases in our open centers and the re-opening of our temporarily closed centers. Tuition revenue increased by \$108.8 million, or 19.8%, when compared to the prior year, on a 22% increase in enrollment. As noted above, while enrollment in our centers continues to improve, our centers continue to operate below pre-COVID-19 enrollment levels as the ongoing disruption of the pandemic, infection resurgences and labor market challenges have slowed the recovery and impacted occupancy levels. We expect continued occupancy improvement throughout 2022 and into 2023. Additionally, during the six months ended June 30, 2022, \$3.4 million was received from government programs related to tuition support and was recorded to revenue. Lower foreign currency exchange rates for our United Kingdom and Netherlands operations partially offset our revenue growth, which decreased 2022 tuition revenue by approximately 3%, or \$16.7 million. Management fees and operating subsidies from employer sponsors decreased by \$8.3 million, or 11%, primarily due to funding received from government support programs that reduced certain center operating costs, which impacted the related operating subsidies. During the six months ended June 30, 2022 and 2021, funding received from government support programs of \$16.0 million and \$5.7 million, respectively, reduced the operating subsidy revenue due from employers.

Revenue generated by back-up care services in the six months ended June 30, 2022 increased by \$14.7 million, or 9%, when compared to the same period in 2021. Revenue growth in the back-up care segment was primarily attributable to expanded sales to new client, increased utilization of center-based and in-home back-up care from new and existing clients, and contributions from our various back-up use types.

Revenue generated by educational advisory and other services in the six months ended June 30, 2022 increased by \$3.2 million, or 6%, when compared to the same period in the prior year. Revenue growth in this segment was primarily attributable to contributions from sales to new clients and increased utilization from existing clients.

Cost of Services. Cost of services increased \$67.2 million, or 10%, to \$712.2 million for the six months ended June 30, 2022 from \$645.0 million for the same period in 2021.

Cost of services in the full service center-based child care segment increased \$49.8 million, or 9%, to \$591.5 million in the six months ended June 30, 2022 when compared to the same period in 2021. The increase in cost of services was primarily associated with the enrollment increase in our centers and the re-opening of our temporarily closed centers. Personnel costs increased 13% primarily in connection with the enrollment growth at our centers. Funding received from government support programs reduced center operating expenses by \$46.7 million in 2022, compared to \$17.0 million in government funding received in 2021. As noted above, a portion of the funding received from government support programs reduced the operating costs in certain employer-sponsored centers, which in turn reduced the operating subsidy revenue due from employers for the related child care centers by \$16.0 million and \$5.7 million in the six months ended June 30, 2022 and 2021, respectively.

Cost of services in the back-up care segment increased \$16.4 million, or 21%, to \$95.2 million in the six months ended June 30, 2022, when compared to the prior year. The increase in cost of services is associated with the effects of a change in the revenue mix and the return to higher levels of center-based and in-home back-up care use in 2022 compared to more significant self-sourced reimbursed care in the prior year period. The increase in cost of services included increased care provider fees generated by the increase in utilization levels of center-based and in-home back-up care over the prior year, and continued investment in personnel, marketing and technology to support our customer user experience and service delivery.

Cost of services in the educational advisory and other services segment increased by \$1.0 million, or 4%, to \$25.5 million in the six months ended June 30, 2022 when compared to the prior year, which is broadly consistent with the revenue growth. The increase was primarily due to personnel costs related to delivering services to the expanding customer base.

Gross Profit. Gross profit increased \$51.2 million, or 27%, to \$238.6 million for the six months ended June 30, 2022 from \$187.3 million for the same period in 2021. Gross profit margin was 25% of revenue for the six months ended June 30, 2022 an increase of approximately 2% compared to the six months ended June 30, 2021. The increase was primarily due to improved margins in the full service center-based child care segment from enrollment increases at open child care centers and from the re-opening of temporarily closed centers.

Selling, General and Administrative Expenses. SGA increased \$20.9 million, or 17%, to \$145.4 million for the six months ended June 30, 2022 from \$124.6 million for the same period in 2021, in order to support the business as it continues to re-ramp. SGA was 15% of revenue for the six months ended June 30, 2022, generally consistent with the same period in 2021.

Amortization of Intangible Assets. Amortization expense on intangible assets was \$14.2 million for the six months ended June 30, 2022, a decrease from \$15.1 million for the six months ended June 30, 2021 due to decreases from certain intangible assets becoming fully amortized during the period, partially offset by increases from the acquisitions completed in 2021.

Income from Operations. Income from operations increased by \$31.3 million, or 66%, to \$79.0 million for the six months ended June 30, 2022 when compared to the same period in 2021. The following table summarizes income from operations and percentage of revenue for each of our segments for the six months ended June 30, 2022 and 2021:

	Six Months Ended June 30,				Change 2022 vs 2021	
	2022		2021			
	(In thousands, except percentages)					
Full-service center-based child care	\$ 26,883	3.7 %	\$ (13,905)	(2.2)%	\$ 40,788	293.3 %
Back-up care	45,577	26.4 %	51,959	32.9 %	(6,382)	(12.3)%
Educational advisory and other services	6,526	12.3 %	9,666	19.4 %	(3,140)	(32.5)%
Income from operations	\$ 78,986	8.3 %	\$ 47,720	5.7 %	\$ 31,266	65.5 %

The increase in income from operations was due to the following:

- Income from operations for the full service center-based child care segment increased \$40.8 million, or 293%, in the six months ended June 30, 2022 when compared to the same period in 2021 primarily due to increases in tuition revenue from enrollment growth in our open centers and the re-opening of temporarily closed centers, as well as incremental net contributions of approximately \$23 million from government support programs that primarily reduced certain operating expenses.
- Income from operations for the back-up care segment decreased \$6.4 million, or 12%, in the six months ended June 30, 2022 when compared to the same period in 2021, as the service delivery mix continues to shift back towards pre-COVID-19 levels, with increasing utilization of traditional in-home and center-based back-up care and a decrease in self-sourced reimbursed care compared to the prior year.
- Income from operations for the educational advisory and other services segment decreased \$3.1 million, or 32%, in the six months ended June 30, 2022 when compared to the same period in 2021 due to investments in personnel, marketing and technology to support the growth of the segment.

Loss on Foreign Currency Forward Contracts. During the six months ended June 30, 2022, in connection with the acquisition in Australia completed in July 2022, we entered into foreign currency forward contracts with a total notional value of approximately AUD\$320 million, which included the expected payments for the purchase price and for letters of credit used to guarantee certain lease arrangements, to mitigate the impact of foreign currency fluctuations between signing of the definitive purchase agreement on May 3, 2022 and closing. The cash flows associated with the business combination do not meet the criteria to be designated and accounted for as cash flow hedges and as such, foreign currency gains and losses are recorded on the consolidated statement of income. During the six months ended June 30, 2022, we recognized realized and unrealized losses of \$5.9 million in relation to these forward contracts due to fluctuations in the Australian dollar.

Net Interest Expense. Net interest expense decreased to \$15.0 million for the six months ended June 30, 2022 from \$18.6 million for the same period in 2021, due to decreased borrowings under our revolving credit facility as well as decreases in the interest rates applicable to our debt. Including the effects of the interest rate swap arrangements, the weighted average interest rates for the term loan and revolving credit facility were 2.55% and 3.06% for the six months ended June 30, 2022 and 2021, respectively.

Income Tax Expense. We recorded income tax expense of \$13.7 million for the six months ended June 30, 2022 at an effective income tax rate of 24%, compared to an income tax expense of \$3.2 million during the six months ended June 30, 2021, at an effective income tax rate of 11%. The difference between the effective income tax rates as compared to the statutory income tax rates was primarily due to the effects of excess tax benefits associated with the exercise of stock options and vesting of restricted stock. During the six months ended June 30, 2022 and 2021, the excess tax benefit decreased income tax expense by \$2.7 million and \$5.1 million, respectively. The effective income tax rate may fluctuate from quarter to quarter for various reasons, including changes to income before income tax, jurisdictional mix of income before income tax, valuation allowances, jurisdictional income tax rate changes, as well as discrete items such as the settlement of foreign, federal and state tax issues, and the effects of excess tax benefits associated with the exercise of stock options and vesting of restricted stock. The effective income tax rate would have approximated 28% for the six months ended June 30, 2022 and 2021, prior to the inclusion of the excess tax benefit from stock-based compensation and other discrete items.

Adjusted EBITDA and Adjusted Income from Operations. Adjusted EBITDA and adjusted income from operations increased \$31.7 million, or 28%, and \$33.8 million, or 71%, respectively, for the six months ended June 30, 2022 over the comparable period in 2021 primarily as a result of the increase in gross profit in the full service center-based child care segment.

Adjusted Net Income. Adjusted net income increased \$26.1 million, or 60%, for the six months ended June 30, 2022 when compared to the same period in 2021, primarily due to the increase in income from operations, partially offset by a higher effective tax rate.

Non-GAAP Financial Measures and Reconciliation

In our quarterly and annual reports, earnings press releases and conference calls, we discuss key financial measures that are not calculated in accordance with GAAP to supplement our consolidated financial statements presented on a GAAP basis. These non-GAAP financial measures of adjusted EBITDA, adjusted income from operations, adjusted net income and diluted adjusted earnings per common share are reconciled from their respective measures determined under GAAP as follows:

	Three Months Ended June 30,		Six Months Ended June 30,	
	2022	2021	2022	2021
	(In thousands, except share data)			
Net income	\$ 24,945	\$ 18,815	\$ 44,351	\$ 25,947
Interest expense — net	7,942	9,580	14,988	18,596
Income tax expense	9,018	5,617	13,730	3,177
Depreciation	18,055	20,598	36,482	40,340
Amortization of intangible assets ^(a)	7,030	7,512	14,179	15,052
EBITDA	66,990	62,122	123,730	103,112
<i>Additional adjustments:</i>				
Stock-based compensation expense ^(b)	7,672	5,829	13,768	11,135
Loss on foreign currency forward contracts ^(c)	5,917	—	5,917	—
Other costs ^(d)	2,497	—	2,497	—
Total adjustments	16,086	5,829	22,182	11,135
Adjusted EBITDA	\$ 83,076	\$ 67,951	\$ 145,912	\$ 114,247
Income from operations	\$ 47,822	\$ 34,012	\$ 78,986	\$ 47,720
Other costs ^(d)	2,497	—	2,497	—
Adjusted income from operations	\$ 50,319	\$ 34,012	\$ 81,483	\$ 47,720
Net income	\$ 24,945	\$ 18,815	\$ 44,351	\$ 25,947
Income tax expense	9,018	5,617	13,730	3,177
Income before income tax	33,963	24,432	58,081	29,124
Amortization of intangible assets ^(a)	7,030	7,512	14,179	15,052
Stock-based compensation expense ^(b)	7,672	5,829	13,768	11,135
Loss on foreign currency forward contracts ^(c)	5,917	—	5,917	—
Other costs ^(d)	2,497	—	2,497	—
Adjusted income before income tax	57,079	37,773	94,442	55,311
Adjusted income tax expense ^(e)	(14,966)	(7,932)	(24,606)	(11,615)
Adjusted net income	\$ 42,113	\$ 29,841	\$ 69,836	\$ 43,696
Weighted average common shares outstanding — diluted	59,252,869	61,106,792	59,334,107	61,216,383
Diluted adjusted earnings per common share	\$ 0.71	\$ 0.49	\$ 1.18	\$ 0.71

- (a) Amortization of intangible assets represents amortization expense, including quarterly amortization expense of \$5.0 million associated with intangible assets recorded in connection with our going private transaction in May 2008.
- (b) Stock-based compensation expense represents non-cash stock-based compensation expense in accordance with Accounting Standards Codification Topic 718, *Compensation-Stock Compensation*.
- (c) During the three months ended June 30, 2022, we entered into foreign currency forward contracts for the purchase of Australian dollars to satisfy the purchase price of an acquisition completed in July 2022. A loss of \$5.9 million resulting from fluctuations in foreign currency rates was recognized during the three months ended June 30, 2022 in relation to these contracts.
- (d) Other costs represents transaction costs incurred in connection with acquisitions.

- (e) Represents income tax expense calculated on adjusted income before income tax at an effective tax rate of approximately 26% and 21% for the three and six months ended June 30, 2022 and 2021, respectively. The tax rate for 2022 represents a tax rate of approximately 27% applied to the expected adjusted income before income tax, less the estimated effect of excess tax benefits related to equity transactions. However, the jurisdictional mix of the expected adjusted income before income tax for the full year, and the timing and volume of the tax benefits associated with future equity activity will affect these estimates and the estimated effective tax rate for the year.

Adjusted EBITDA, adjusted income from operations, adjusted net income and diluted adjusted earnings per common share (collectively referred to as the “non-GAAP financial measures”) are not presentations made in accordance with GAAP, and the use of the terms adjusted EBITDA, adjusted income from operations, adjusted net income and diluted adjusted earnings per common share may differ from similar measures reported by other companies and may not be comparable to other similarly titled measures. We believe the non-GAAP financial measures provide investors with useful information with respect to our historical operations. We present the non-GAAP financial measures as supplemental performance measures because we believe they facilitate a comparative assessment of our operating performance relative to our performance based on our results under GAAP, while isolating the effects of some items that vary from period to period. Specifically, adjusted EBITDA allows for an assessment of our operating performance and of our ability to service or incur indebtedness without the effect of non-cash charges, such as depreciation, amortization, stock-based compensation expense, and at times, non-recurring costs, such as loss on foreign currency forward contracts and transaction costs. In addition, adjusted income from operations, adjusted net income and diluted adjusted earnings per common share allow us to assess our performance without the impact of the specifically identified items that we believe do not directly reflect our core operations. These non-GAAP financial measures also function as key performance indicators used to evaluate our operating performance internally, and they are used in connection with the determination of incentive compensation for management, including executive officers. Adjusted EBITDA is also used in connection with the determination of certain ratio requirements under our credit agreement.

Adjusted EBITDA, adjusted income from operations, adjusted net income and diluted adjusted earnings per common share are not measurements of our financial performance under GAAP and should not be considered in isolation or as an alternative to income before taxes, net income, diluted earnings per common share, net cash provided by (used in) operating, investing or financing activities or any other financial statement data presented as indicators of financial performance or liquidity, each as presented in accordance with GAAP. Consequently, our non-GAAP financial measures should be considered together with our consolidated financial statements, which are prepared in accordance with GAAP and included in Part I, Item 1 of this Quarterly Report on Form 10-Q. We understand that although adjusted EBITDA, adjusted income from operations, adjusted net income and diluted adjusted earnings per common share are frequently used by securities analysts, lenders and others in their evaluation of companies, they have limitations as analytical tools, and you should not consider them in isolation, or as a substitute for analysis of our results as reported under GAAP. Some of these limitations are:

- adjusted EBITDA, adjusted income from operations and adjusted net income do not fully reflect our cash expenditures, future requirements for capital expenditures or contractual commitments;
- adjusted EBITDA, adjusted income from operations and adjusted net income do not reflect changes in, or cash requirements for, our working capital needs;
- adjusted EBITDA does not reflect the significant interest expense, or the cash requirements necessary to service interest or principal payments, on debt; and
- although depreciation and amortization are non-cash charges, the assets being depreciated and amortized will often have to be replaced in the future, and adjusted EBITDA, adjusted income from operations and adjusted net income do not reflect any cash requirements for such replacements.

Because of these limitations, adjusted EBITDA, adjusted income from operations and adjusted net income should not be considered as discretionary cash available to us to reinvest in the growth of our business or as measures of cash that will be available to us to meet our obligations.

Liquidity and Capital Resources

Our primary cash requirements are for the ongoing operations of our existing early education and child care centers, back-up care, educational advisory and other services, the addition of new centers through development or acquisitions, and debt financing obligations. Our primary sources of liquidity are our existing cash, cash flows from operations, and borrowings available under our revolving credit facility. We had \$270.4 million in cash (\$276.7 million including restricted cash) at June 30, 2022, of which \$19.5 million was held in foreign jurisdictions, compared to \$261.0 million in cash (\$265.3 million including restricted cash) at December 31, 2021, of which \$25.8 million was held in foreign jurisdictions. Operations outside of North America accounted for 25% and 27% of our consolidated revenue in the six months ended June 30, 2022 and 2021, respectively. The net impact on our liquidity from changes in foreign currency exchange rates was not material for the six months ended June 30, 2022 and 2021, and we do not currently expect that the effects of changes in foreign currency exchange rates will have a material net impact on our liquidity, capital resources or results from operations for the remainder of 2022.

On July 1, 2022, we completed the acquisition of the outstanding shares of OAC, a child care operator in Australia, for aggregate consideration of AUD\$450 million. We paid approximately AUD\$300 million (USD\$207 million), net of cash acquired, and will pay an additional USD\$106.5 million 18 months after closing. The initial purchase price was financed with cash on hand. In addition, we funded AUD\$14.1 million (USD\$9.7 million) for cash-backed guarantees for leases that will be recorded as restricted cash on our consolidated balance sheet.

Our revolving credit facility is part of our senior secured credit facilities, which consist of term loans and a \$400 million revolving credit facility. There were no borrowings outstanding on our revolving credit facility at June 30, 2022 and December 31, 2021. We expect to draw on the revolving credit facility following the closing of the acquisition of OAC.

We had a working capital deficit of \$82.4 million and \$81.9 million at June 30, 2022 and December 31, 2021, respectively. Our working capital deficit has primarily arisen from using cash to make long-term investments in fixed assets and acquisitions, and from share repurchases. We anticipate that our cash flows from operating activities will continue to be impacted while our center performance continues to ramp. As we focus on the enrollment and ramping of centers, we continue to prioritize investments that support current operations and strategic opportunities, as well as the principal and interest payments on our debt.

During the six months ended June 30, 2022 and 2021, we participated in government support programs that were enacted in response to the economic impact of the COVID-19 pandemic, including certain tax deferrals, tax credits and federal block grant funding in the United States, as well as employee wage support in the United Kingdom. During the six months ended June 30, 2022 and 2021, \$46.7 million and \$17.0 million, respectively, was recorded as a reduction to cost of services in relation to these benefits, of which \$16.0 million and \$5.7 million, respectively, reduced the operating subsidy revenue due from employers for the related child care centers. Additionally, during the six months ended June 30, 2022, amounts received for tuition support of \$3.4 million were recorded to revenue. As of June 30, 2022 and December 31, 2021, \$1.6 million and \$3.3 million, respectively, was recorded in prepaid expenses and other current assets on the consolidated balance sheet for amounts due from government support programs. As of June 30, 2022 and December 31, 2021, \$7.0 million and \$3.9 million was recorded to other current liabilities related to government support received related to future periods, and as of June 30, 2022 and December 31, 2021, payroll tax deferrals of \$7.0 million were recorded in accounts payable and accrued expenses on the consolidated balance sheet.

The board of directors authorized a share repurchase program of up to \$400 million of our outstanding common stock, effective December 16, 2021. The share repurchase program has no expiration date and replaced the prior June 2018 authorization, of which \$0.2 million remained available thereunder. During the six months ended June 30, 2022, we repurchased 0.9 million shares for \$84.2 million, and at June 30, 2022, \$296.4 million remained available under the repurchase program. During the six months ended June 30, 2021, we repurchased 0.5 million shares for \$70.3 million. All repurchased shares have been retired.

We believe that funds provided by operations, our existing cash balances, and borrowings available under our revolving credit facility will be adequate to fund all obligations and liquidity requirements for at least the next 12 months. However, if we were to experience continued or renewed disruption from the COVID-19 pandemic or if we were to undertake any significant acquisitions or make investments in the purchase of facilities for new or existing centers, we could require financing beyond our existing cash and borrowing capacity, and it could be necessary for us to obtain additional debt or equity financing. We may not be able to obtain such financing on reasonable terms, if at all.

Cash Flows	Six Months Ended June 30,	
	2022	2021
	(In thousands)	
Net cash provided by operating activities	\$ 125,770	\$ 135,725
Net cash used in investing activities	\$ (23,140)	\$ (37,656)
Net cash used in financing activities	\$ (89,019)	\$ (56,740)
Cash, cash equivalents and restricted cash — beginning of period	\$ 265,281	\$ 388,465
Cash, cash equivalents and restricted cash — end of period	\$ 276,677	\$ 429,119

Cash Provided by Operating Activities

Cash provided by operating activities was \$125.8 million for the six months ended June 30, 2022, compared to \$135.7 million for the same period in 2021. The decrease in cash provided by operations relates to lower cash provided by working capital arising from the timing of billings and payments when compared to the prior year and the payment of \$5.4 million in contingent consideration during the six months ended June 30, 2022, partially offset by the increase in net income of \$18.4 million.

Cash Used in Investing Activities

Cash used in investing activities was \$23.1 million for the six months ended June 30, 2022 compared to \$37.7 million for the same period in 2021. The decrease in cash used in investing activities was primarily related to a lower volume of fixed asset additions and acquisitions in 2022, and a higher level of proceeds received from investments in 2022 when compared to the prior year. During the six months ended June 30, 2022, we invested \$19.2 million, net of proceeds from the sale of fixed assets, in fixed asset purchases for new child care centers, and maintenance and refurbishments in our existing centers, compared to a net investment of \$28.5 million during the same period in the prior year. We used \$3.3 million to acquire one center in the six months ended June 30, 2022, compared to \$9.1 million used to acquire two centers as well as a camp and back-up care provider during the same period in 2021. Net proceeds received from debt securities and other investments were \$4.0 million in the six months ended June 30, 2022, compared to net cash used in investments of \$0.1 million in the prior year. Additionally, during the six months ended June 30, 2022 we used \$4.6 million in cash to settle foreign currency arrangements, which did not occur in the prior year. We entered into foreign currency forward contracts in the second quarter of 2022 in advance of the acquisition completed in July 2022 in Australia.

Cash Used in Financing Activities

Cash used in financing activities was \$89.0 million for the six months ended June 30, 2022 compared to \$56.7 million for the same period in 2021. The increase in cash used in financing activities in 2022 was primarily related to payments of contingent consideration for acquisitions of \$13.9 million, which did not occur in 2021, and a decrease of \$17.6 million in proceeds received from the exercise of stock options and the issuance and sale of restricted stock compared to the prior year due to lower volume of transactions. Proceeds from the exercise of stock options and the issuance and sale of restricted stock were \$10.6 million and \$28.2 million in the six months ended June 30, 2022 and 2021, respectively.

Debt

Our senior secured credit facilities consist of a \$600 million term loan B facility (“term loan B”), a \$400 million term loan A facility (“term loan A”) and a \$400 million multi-currency revolving credit facility.

Long term debt obligations were as follows:

	June 30, 2022	December 31, 2021
	(In thousands)	
Term loan B	\$ 597,000	\$ 600,000
Term loan A	395,000	400,000
Deferred financing costs and original issue discount	(7,011)	(7,604)
Total debt	984,989	992,396
Less current maturities	(16,000)	(16,000)
Long-term debt	<u>\$ 968,989</u>	<u>\$ 976,396</u>

The seven year term loan B matures on November 23, 2028 and requires quarterly principal payments equal to 1% per annum of the original aggregate principal amount of the term loan B, with the remaining principal balance due at maturity. The five year term loan A matures on November 23, 2026 and requires quarterly principal payments equal to 2.5% per annum of the original aggregate principal amount of the term loan A in each of the first three years, 5.0% in the fourth year, and 7.5% in the fifth year. The remaining principal balance is due at maturity.

The revolving credit facility matures on May 26, 2026. There were no borrowings outstanding on the revolving credit facility at June 30, 2022 and December 31, 2021, with \$400 million available for borrowing.

Borrowings under the credit facilities are subject to variable interest. We mitigate our interest rate exposure with interest rate cap agreements. In December 2021, the Company entered into interest rate cap agreements with a total notional value of \$900 million designated and accounted for as cash flow hedges. Interest rate cap agreements for \$600 million, which have a forward starting effective date of October 31, 2023 and expire on October 31, 2025, provide the Company with interest rate protection in the event the one-month LIBOR rate increases above 2.5%. Interest rate cap agreements for \$300 million, which have a forward starting effective date of October 31, 2023 and expire on October 31, 2026, provide the Company with interest rate protection in the event the one-month LIBOR rate increases above 3.0%.

In June 2020, the Company entered into interest rate cap agreements with a total notional value of \$800 million. These interest rate cap agreements, designated and accounted for as cash flow hedges, provide us with interest rate protection in the event the one-month LIBOR rate increases above 1%. Interest rate cap agreements for \$300 million notional value have an effective date of June 30, 2020 and expire on October 31, 2023, while interest rate cap agreements for another \$500 million notional amount have a forward starting effective date of October 29, 2021, and expire on October 31, 2023.

The weighted average interest rate for the term loans was 2.55% and 3.06% for the six months ended June 30, 2022 and 2021, respectively, including the impact of the cash flow hedges.

The term loan A and the revolving credit facility require Bright Horizons Family Solutions LLC, the borrower, and its restricted subsidiaries, to comply with a maximum first lien net leverage ratio. A breach of this covenant is subject to certain equity cure rights. The credit agreement governing the senior secured credit facilities contains certain customary affirmative covenants and events of default. We were in compliance with our financial covenant at June 30, 2022. Refer to Note 6, *Credit Arrangements and Debt Obligations*, in our condensed consolidated financial statements for additional information on our debt and credit arrangements, and covenant requirements.

Critical Accounting Policies

For a discussion of our “Critical Accounting Policies,” refer to Part II, Item 7, “*Management’s Discussion and Analysis of Financial Condition and Results of Operations*,” in our Annual Report on Form 10-K for the year ended December 31, 2021. There have been no material changes to our critical accounting policies since December 31, 2021.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

We are exposed to market risk from changes in interest rates and fluctuations in foreign currency exchange rates. We do not believe there have been material changes in our exposure to interest rate or foreign currency exchange rate fluctuations since December 31, 2021. See Part II, Item 7A, “*Quantitative and Qualitative Disclosures about Market Risk*,” in our Annual Report on Form 10-K for the year ended December 31, 2021 for further information regarding market risk.

During the three months ended June 30, 2022, in connection with an acquisition in Australia completed in July 2022, we entered into foreign currency forward contracts with a total notional value of approximately AUD\$320 million to mitigate the impact of foreign currency fluctuations between signing of the definitive purchase agreement on May 3, 2022 and closing. During the three months ended June 30, 2022, we recognized realized and unrealized losses of \$5.9 million in relation to these forward contracts due to fluctuations in the Australian dollar. See Note 6, *Credit Arrangements and Debt Obligations—Derivative Financial Instruments*, for additional information.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures

As of June 30, 2022, we conducted an evaluation under the supervision and with the participation of management, including our Chief Executive Officer and Chief Financial Officer (our principal executive officer and principal financial officer, respectively), regarding the effectiveness of the design and operation of our disclosure controls and procedures as defined in Rule 13a-15(e) and 15d-15(e) of the Securities Exchange Act of 1934 (the “Exchange Act”). The term “disclosure controls and procedures” means controls and other procedures that are designed to ensure that information required to be disclosed in reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the requisite time periods and that such disclosure controls and procedures were effective to ensure that information required to be disclosed by the Company in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our principal executive and principal financial officers, or persons performing similar functions, as appropriate to allow timely decisions regarding required disclosure. Based on this evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) were effective as of June 30, 2022.

Changes in Internal Control over Financial Reporting

There have been no changes in our internal control over financial reporting that occurred during the quarter ended June 30, 2022 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings

We are, from time to time, subject to claims, suits, and matters arising in the ordinary course of business. Such claims have in the past generally been covered by insurance, but there can be no assurance that our insurance will be adequate to cover all liabilities that may arise out of claims or matters brought against us. We believe the resolution of such legal matters will not have a material adverse effect on our financial position, results of operations, or cash flows, although we cannot predict the ultimate outcome of any such actions.

Item 1A. Risk Factors

Our operations and financial results are subject to various risks and uncertainties, which could adversely affect our business, financial condition and operating results. We believe that these risks and uncertainties include, but are not limited to, those disclosed in Part I, Item 1A, “*Risk Factors*,” of our Annual Report on Form 10-K for the year ended December 31, 2021, including with respect to the ongoing impacts from the COVID-19 pandemic. The risks described in our Annual Report on Form 10-K are not the only risks we face. Additional risks and uncertainties, not presently known to us or that we currently deem immaterial, could materially impair our business, financial condition or results of operations. There have been no material changes to our risk factors as previously disclosed in our Annual Report on Form 10-K for the year ended December 31, 2021.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

Issuer Purchases of Equity Securities

The table below sets forth information regarding purchases of our common stock during the three months ended June 30, 2022:

Period	Total Number of Shares Purchased (a)	Average Price Paid per Share (b)	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs (1) (c)	Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs (In thousands) (1) (d)
April 1, 2022 to April 30, 2022	—	\$ —	—	\$ 340,914
May 1, 2022 to May 31, 2022	—	\$ —	—	\$ 340,914
June 1, 2022 to June 30, 2022	542,034	\$ 82.17	542,034	\$ 296,374
	<u>542,034</u>		<u>542,034</u>	

(1) The board of directors of the Company authorized a share repurchase program of up to \$400 million of the Company’s outstanding common stock effective December 16, 2021. The share repurchase program has no expiration date. All repurchased shares have been retired.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

Not applicable.

Item 5. Other Information

Not applicable.

Item 6. Exhibits

(a) Exhibits:

Exhibit Number	Exhibit Title
10.1*	Share Sale Agreement by and among Nemo (BC) Cayman, LP, BlueTang OpCo Pty Ltd and Bright Horizons Family Solutions LLC, dated May 3, 2022. (1)
31.1*	Principal Executive Officer Certification Pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a) as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Principal Financial Officer Certification Pursuant to Securities Exchange Act Rules 13a-14(a) and 15d-14(a) as Adopted Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1**	Principal Executive Officer Certification Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2**	Principal Financial Officer Certification Pursuant to 18 U.S.C. Section 1350 as Adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS*	Inline XBRL Instance Document - the instance document does not appear in Interactive Data File because its XBRL tags are embedded within the Inline XBRL document.
101.SCH*	Inline XBRL Taxonomy Extension Schema Document.
101.CAL*	Inline XBRL Taxonomy Extension Calculation Linkbase Document.
101.DEF*	Inline XBRL Taxonomy Extension Definition Linkbase Document.
101.LAB*	Inline XBRL Taxonomy Extension Label Linkbase Document.
101.PRE*	Inline XBRL Taxonomy Extension Presentation Linkbase Document.
104	Cover Page Interactive Data File (formatted as inline XBRL with applicable taxonomy extension information contained in Exhibits 101).

* Exhibits filed herewith.

** Exhibits furnished herewith.

(1) Schedules (or similar attachments) have been omitted pursuant to Item 601(b)(2) of Regulation S-K. The registrant hereby undertakes to furnish supplemental copies of any of the omitted schedules (or similar attachments) upon request by the SEC.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

BRIGHT HORIZONS FAMILY SOLUTIONS INC.

Date: August 5, 2022

By: /s/ Elizabeth Boland

Elizabeth Boland
Chief Financial Officer
(Duly Authorized Officer)

Nemo (BC) Cayman, LP
BlueTang OpCo Pty Ltd
Bright Horizons Family Solutions LLC

Share Sale Agreement

Project Dory

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This Agreement is made on 3 May 2022

Parties

- 1 **Nemo (BC) Cayman, LP** of PO Box 309 Ugland House Grand Cayman KY1-1104 Cayman Islands (the **Vendor**).
- 2 **BlueTang OpCo Pty Ltd** (ACN 659 128 444) of Level 10, 68 Pitt Street Sydney NSW 2000 (the **Purchaser**).
- 3 **Bright Horizons Family Solutions LLC** of 2 Wells Ave, Newton, MA 02459, United States of America (the **Guarantor**).

Recitals

- A The Vendor is the registered holder and beneficial owner of the Shares.
- B The Vendor has agreed to sell the Shares to the Purchaser, and the Purchaser has agreed to buy the Shares from the Vendor, on the terms and conditions of this Agreement (**Transaction**).
- C The Guarantor has agreed to guarantee certain obligations of the Purchaser in accordance with the terms of this Agreement.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Accelerated Depreciation Measures Opt Out Choice means a choice made in accordance with section 40-137 of the Income Tax (Transitional Provisions) Act 1997 (Cth) such that the decline in value of a particular depreciating asset is not to be worked out in under Subdivision 40-BA of the Income Tax (Transitional Provisions) Act 1997 (Cth).

Accounting Principles means the principles, policies and procedures to be applied in preparing the Completion Statement, as set out in Schedule 3.

Accounting Standards means:

- (a) the requirements of the Corporations Act in relation to the preparation and content of financial reports; and
- (b) the accounting standards approved under the Corporations Act, being the Australian Accounting Standards and any authoritative interpretations issued by the Australian Accounting Standards Board.

Accounts means the audited consolidated accounts for the Group for the financial year ended on the Accounts Date.

Accounts Date means 30 June 2021.

ACM IP Licence the agreement between Only About Children Pty Ltd and Advance Childcare Management Pty Ltd dated 28 February 2020.

Adjustment Amount means the amount (if any) equal to:

- (a) the Completion Working Capital Amount; *less*
- (b) the Estimated Working Capital Amount; *less*
- (c) the Completion Net Debt Amount; *plus*
- (d) the Estimated Net Debt Amount.

which amount, if less than \$0, will be expressed as a negative number.

Adjustment Review Date has the meaning given in clause 6.1(b).

Agreed Exchange Rate means the A\$:US\$ exchange rate agreed between the parties, being A\$1 = US\$0.71.

Approvals means the authorisations, permits, licences, consents, exemptions and other formal approvals from any Governmental Agency required by applicable law for the operation of the Business as at the date of this Agreement.

Assessment in relation to Tax includes any process by which any Group Member could become liable to pay an amount of Tax, or an amount on account of Tax, to a Taxation Authority including without limiting any such process as may be effected by a Taxation Authority or by self-assessment, by original or amended assessment, by actual or deemed assessment, by written notice, claim or demand, or otherwise.

ASX means ASX Limited ACN 008 624 691 or the financial markets that entity operates, depending on context.

Audit means, in relation to Tax, any audit, investigation, review, information request or other inquiry of any kind undertaken by a Taxation Authority.

Bank Guarantee means the bank guarantees listed in Schedule 7.

Business means the business of providing childcare services as carried on by the Group as at the date of this Agreement.

Business Day means a day that is not a Saturday, Sunday or a public holiday and on which banks are open for business generally in New South Wales, Australia and Massachusetts, United States of America.

Business Intellectual Property means Intellectual Property Rights used in, being developed by or for, or otherwise relating to, the Business, excluding Intellectual Property Rights licensed to Only About Children Pty Ltd under the ACM IP Licence.

Business Records means the books, records and statutory documents required by applicable law to be prepared and maintained by a Group Member.

Campus Lease means those Leases relating to the campuses listed in Schedule 9 as at the date of this Agreement.

Cash means, without double counting any item which may be described in more than one of the paragraphs of this definition:

- (a) the aggregate amount of all cash, cash equivalents and deposits of the Group, including all interest accrued on such amounts, on hand or credited to an account with a bank or other financial institution, net of outstanding bank overdrafts as recorded in the reconciled general ledgers of the Group Companies; *plus*
- (b) any rental rebates as recorded in the reconciled general ledgers of the Group Companies; *plus*
- (c) the Cash Like Items.

Cash Like Items means:

- (a) to the extent that any earn out or other contingent payment has been paid by the Group in connection with the Little Village Transaction prior to the Effective Time, in accordance with the terms of the sale agreements, for the Little Village Transaction (in the form disclosed in the Data Room Documentation), the amount equal to such earn out or other contingent payment; *plus*
- (b) the full amount of the Insurance Claim in the circumstance where such claim has been fully agreed and settled but has not been paid to the Group prior to the Effective Time.

Claim means any claim, demand, legal proceeding or cause of action, whether present, unascertained, immediate, future or contingent and in any way relating to this Agreement, the sale of the Shares, the Business, or any agreement entered into pursuant to this Agreement, including Warranty Claims and Tax Claims.

Company means Nemo (BC) HoldCo Pty Ltd (ACN 614 209 880).

Completion means completion of the Transaction in accordance with clause 5.

Completion Date means the date on which Completion occurs, being:

- (a) the first Business Day of the month in Sydney (Australia) and Boston (USA) following the month in which the final Condition Precedent is satisfied in accordance with this Agreement (unless the satisfaction of that Condition Precedent occurs within 5 Business Days before the end of a month, in which case the first Business Day of the second month in Sydney (Australia) and Boston (USA) following the month in which that Condition Precedent is satisfied in accordance with this Agreement), provided that Completion will not occur prior to 1 July 2022 (subject to clause 10.5(d)); or
- (b) such other date as the Vendor and the Purchaser may agree in writing.

Completion Net Debt Amount means the amount equal to Debt *less* Cash of the Group as at the Effective Time calculated in accordance with the Accounting Principles and as set out in the final Completion Statement. For the avoidance of doubt, if Cash is greater than the absolute value of the Debt, then the Completion Net Debt Amount will be a negative amount, and if Cash is less than the absolute value of the Debt, then the Completion Net Debt Amount will be a positive amount.

Completion Payment means an amount equal to:

- (a) the Initial Purchase Price; *less*
- (b) the External Debt Amount; *less*
- (c) the Deferred Consideration; *less*
- (d) the Completion Transaction Costs (excluding GST); *less*
- (e) 80% of the Completion Transaction Bonuses inclusive of associated oncosts such as PAYG withholding superannuation, workers compensation and payroll tax; *less*
- (f) the Permitted Preference Share Dividend Amount; *plus*
- (g) the Initial Adjustment Amount.

For the avoidance of doubt, the Deferred Consideration is A\$150,000,000 when used in the context of calculating the Completion Payment.

Completion Statement means the statement to be prepared as at the Effective Time in the form set out in Part A of Schedule 4, prepared in accordance with the Accounting Principles and as finally agreed or determined in accordance with clause 6.

Completion Transaction Costs means the Transaction Costs as at the Effective Time, as set out in the Estimated Completion Statement.

Completion Transaction Bonuses means the Transaction Bonuses, as set out in the Estimated Completion Statement.

Completion Working Capital Amount means the net Working Capital balance of the Group as at the Effective Time, calculated in accordance with the Accounting Principles and as set out in the final Completion Statement.

Condition Precedent has the meaning given in clause 2.1.

Condition Precedent End Date means:

- (a) the date that is 4 months from the date of this Agreement; or
- (b) the date that is 6 months from the date of this Agreement, where the Conditions Precedent have not been satisfied by 5:00pm on the date that is 10 Business Days prior to the date set out in paragraph (a) above and either the Vendor or the Purchaser notifies the other that the Condition Precedent End Date will be extended for a further 2 months,

or any later date that the Vendor and the Purchaser agree in writing.

Consequential Loss means:

- (a) any Liability suffered by a party that cannot reasonably be considered to arise naturally from a breach of this Agreement or the events giving rise to the Liability, which may include:
 - (i) loss of income, loss of revenue, loss of profit, loss of financial opportunity, loss of business, loss of contract, loss of use, loss of goodwill, loss of production and other economic loss; and
 - (ii) financing costs or an increase in operating costs,

but excludes:

- (b) where the loss or damage is direct loss of profits, direct loss of revenue or direct loss of production;
- (c) where the loss or damage arises naturally, and in the usual course of things, from the breach; or
- (d) any diminution in the value of the Shares or assets of the Group.

Control means, with respect to any person, the possession, directly or indirectly, of the power (whether or not binding or enforceable, and including as a matter of practice) to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by agreement or otherwise, and includes the following:

- (a) direct or indirect ownership of more than 50% of the voting rights of such person; or
- (b) the right to appoint the majority of the members of the board of directors (or similar governing body) of such person or to manage on a discretionary basis the assets of such person.

For the purposes of this definition:

- (a) a general partner is deemed to Control a limited partnership of which it is the general partner;
- (b) a fund, vehicle or account advised or managed directly or indirectly by a person will also be deemed to be Controlled by such person; and

- (c) a person will be deemed to Control a trust if:
- (i) the person is (or Controls, through the application of another part of this definition) a trustee of the trust;
 - (ii) the composition of the board of directors (or similar governing body) of any trustee of the trust is determined by the person (alone or with its Related Entities);
 - (iii) any trustee of the trust, or the board of directors (or similar governing body) of any trustee of the trust, is accustomed to act in accordance with the instructions, directions or wishes of the person (alone or with its Related Entities);
 - (iv) the person holds or owns (alone or with its Related Entities) and whether directly or indirectly:
 - (A) the majority of the issued voting securities of any trustee of the trust;
 - (B) the majority of the issued voting securities of the ultimate controlling entity of any trustee of the trust; or
 - (C) the majority of the units, securities or other rights granted by the trust entitling holders to distributions from the trust; or
 - (v) the person has the power to appoint or determine any of the trustees or beneficiaries of the trust.

Corporations Act means the *Corporations Act 2001* (Cth).

COVID-19 means any actual or suspected outbreak or other transmission of the novel coronavirus known as COVID-19 (including any variant) anywhere in Australia whether before, on or after the date of this Agreement.

Data Room means the electronic data room titled 'Project Dory' accessible via <https://dataroom.ansarada.com> in connection with the Transaction and to which the Purchaser and its Representatives have had access prior to the date of this Agreement.

Data Room Documentation means all documentation, data and information contained in the Data (including the responses to questions and requests for further information submitted via the Data Room) as at that date that is one Business Day prior to the date of this Agreement.

Debt means, without double counting any item which may be described in more than one of the paragraphs of this definition, the aggregate amount of the debt of the Group in respect of:

- (a) any money borrowed from or owing to any financial institution by the Group, including all principal and accrued interest and all fees payable on discharge;
- (b) any bank guarantees, letters of credit or similar forms of credit support given by a Group Member other than those issued in connection with any credit card facilities or Leases, or in the ordinary course of the Business;
- (c) any obligations under any leasing or similar arrangement which, in accordance with AASB 117 is classified as a finance lease and is entered into by any Group Member as borrower or lessee;
- (d) any unpaid Run-Off Insurance Amount;
- (e) any unpaid Income Tax or Duty payable by the Group;
- (f) any amounts required to pay out any interest rate or foreign currency hedging instruments;
- (g) 80% of the Market Street Exit Payment, to the extent unpaid at the Effective Time;
- (h) any unpaid fees owing under the Bain Management Agreement at Completion;

- (i) deferred rent (included in accruals and trade creditors) relating to COVID rent deferrals, but excluding:
- (j) for the avoidance of doubt, the External Debt Amount, the Permitted Preference Share Dividend Amount, the Completion Transaction Bonuses and the Completion Transaction Costs, except to the extent that any Transaction Costs and Transaction Bonuses have not been deducted from the Completion Payment or otherwise fully paid, repaid or discharged (as the case may be) on Completion (in which case such amounts will be considered Debt);
 - (k) the amount of any earn out or other contingent payment payable by the Group in connection with the Little Village Transaction (in accordance with the terms of the sale agreements, for the Little Village Transaction in the form disclosed in the Data Room Documentation);
 - (l) any amounts treated as an operating lease under AASB 117 or as a liability under AASB 16;
 - (m) credit card liabilities arising from the conduct of the Business in the ordinary course up to the Effective Time;
 - (n) amounts receivable or payable between Group Members; and
 - (o) accounts payable in the ordinary course of the Business.

Deferred Consideration means US\$106,500,000 (representing an amount equal to A\$150,000,000 converted into US dollars at the Agreed Exchange Rate).

Disclosure Material means the Data Room Documentation.

Dispute Notice has the meaning given in clause 6.2.

Duty means any stamp, transaction or registration duty or similar charge which is imposed by any Governmental Agency and includes any associated interest, penalty, charge or other amount which is imposed.

Effective Time means 12:01am on the Completion Date.

Employee means an employee of the Group.

Estimated Completion Statement means the statement to be prepared in the form set out in Part B of Schedule 4.

Estimated Net Debt Amount means the Vendor's bona fide estimate of the Completion Net Debt Amount, as set out in the Estimated Completion Statement. For the avoidance of doubt, if Cash is greater than the absolute value of the Debt, then the Estimated Net Debt Amount will be a negative amount, and if Cash is less than the absolute value of the Debt, then the Estimated Net Debt Amount will be a positive amount.

Estimated Working Capital Amount means the Vendor's good faith estimate of the Completion Working Capital Amount, as set out in the Estimated Completion Statement.

Expert means a partner of an internationally recognised accounting firm, which is independent of the Vendor, the Company and the Purchaser, with at least 10 years post qualification experience as an accountant and who has the requisite knowledge and expertise in determining completion adjustment disputes, who is engaged in accordance with clause 6.2(d).

External Debt Amount means the aggregate amount required to satisfy in full all amounts outstanding under the External Debt Facility as at the Effective Time, including all principal and accrued and unpaid interest as at the Effective Time and all charges and costs (including break

costs) payable in connection with the repayment and termination of the External Debt Facility at Completion, as set out in the Estimated Completion Statement.

External Debt Facility means the Nemo (BC) BidCo Pty Ltd Syndicated Facility Agreement dated 5 April 2018 (as amended).

Fairly Disclosed means disclosed in sufficient detail that a sophisticated purchaser of a business similar to the Business, or its Representatives, would be aware of the substance and significance of the fact, matter or circumstance.

Forward Looking Information means any forecast, projection, estimate, budget, statement of intent or statement of opinion on or in relation to the future performance or prospects of the Business, the Group or both.

Governmental Agency means a government or a governmental, semi-governmental, regulatory or judicial entity or authority (including any successor entity or authority to any such entity or authority) and includes a self-regulatory organisation established under statute or a securities exchange.

Group means the Company and each company Controlled by the Company listed in Schedule 6, and **Group Member** means any of them.

GST means the tax that is the subject of the GST Laws, and includes any additional tax, penalty tax, fine, interest or other charge relating thereto.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Laws means the GST Act and or any equivalent legislation in any jurisdiction as the context requires.

Guarantor Warranties means the representations and warranties set out in Part B of Schedule 2.

Immediately Available Funds means cash or telegraphic or other electronic means of transfer of cleared funds into a bank account nominated in advance by the payee.

Income Tax means tax imposed on income, profits, or gains, including taxation of capital gains and taxation of notional or deemed gains under a Tax Law.

Income Year means a financial year or other period of 12 months in respect of which Income Tax is payable, or any period in lieu thereof.

Initial Adjustment Amount means:

- (a) the Estimated Working Capital Amount; *less*
- (b) the Target Working Capital Amount; *less*
- (c) the Estimated Net Debt Amount,

which amount, if less than \$0, will be expressed as a negative number.

Initial Purchase Price means \$450,000,000.

Insurance Claim means the claim lodged with AIG Australia Ltd by Nemo (BC) BidCo Pty Ltd and the claim lodged with AIG Australia Ltd by OAC No.1 Pty Ltd, each under the Group's warranty and indemnity insurance policy in relation to the acquisition of the Little Learning School business.

Intellectual Property Rights means all intellectual and industrial property rights throughout the world, whether registered or unregistered, including trade marks, designs, patents, inventions, circuit layouts, copyright and analogous rights, confidential information, know-how and all other

intellectual property rights as defined in Article 2 of the convention establishing the World Intellectual Property Organisation of 14 July 1967 as amended from time to time.

Interest Rate means the 24 hour delay rate displayed at or about 11am (AEST time) on the ASX benchmark rates page (or any successor page) for Australian bank bills of a three month tenor.

JobKeeper Scheme means the wage subsidy scheme colloquially known as the 'JobKeeper' scheme that is made available by the Commonwealth of Australia under the Coronavirus Economic Response Package (Payments and Benefits) Act 2020 (Cth) and Coronavirus Economic Response Package Omnibus (Measures No. 2) Act 2020 (Cth), including any amendment, replacement, renewal or extension of such program by the Commonwealth of Australia to achieve materially the same policy intent.

Key Individuals means:

- (a) John Burns;
- (b) David Mahony;
- (c) Nik Scotcher;
- (d) Kathryn Hutchins;
- (e) Melanie Leijer;
- (f) Sonia Lee; and
- (g) Sam Winter.

Law means any statute, regulation, order, rule or subordinate legislation.

Lease means an oral or written agreement or arrangement under which a Group Member has the right to use or occupy any Leasehold Property.

Leasehold Property means the leasehold properties listed in Schedule 5.

Liabilities means claims, debts, obligations, losses, liabilities, costs, damages and expenses of any kind and however arising, including penalties, fines and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.

Little Village Transaction means the acquisition by the Vendor Group of Little Village Early Learning Buderim Pty Ltd, Little Village Bridgeman Downs Pty Ltd, Project Village Ridley Pty Ltd and the freehold title located at 207 Ridley Road, Bridgeman Downs, Queensland 4035 pursuant to the share sale deeds and contract for sale of land at 01.07.01.001, 01.07.01.002 and 16.02.06 of the Data Room.

Liquidation means receivership or other appointment of a controller, deregistration, compromise, deed of arrangement, amalgamation, administration, reconstruction, winding up, dissolution, assignment for the benefit of creditors, arrangement or compromise with creditors or bankruptcy

Management Accounts means the consolidated unaudited management accounts of the Group for the period from the Accounts Date to 31 March 2022, as set out in 01.02.02.11.001 – 01.02.02.011.007 of the Data Room.

Management Equity Plan means the management equity plan established by the Company, and all related and ancillary agreements and documents, in each case as amended from time to time.

Market Street Exit Payment means \$1,501,390.55 (inclusive of GST).

Market Street Lease means the lease for Level 1, 44 Market Street, Sydney NSW 2000 between Perpetual Trustee Company Limited, Dexu Funds Management Limited and OAC Operations Pty Ltd.

Material Contract means a contract to which a Group Member is a party that:

- (a) requires payments, or is reasonably likely to require payments, in excess of \$250,000 per annum; or
- (b) is reasonably likely to generate revenue in excess of \$250,000 per annum.

Notice has the meaning given in clause 18.10.

Other Relevant Returns has the meaning given in clause 11.3(a)(iii).

Permitted Dividends means one or more dividends declared and paid by the Company to the Vendor prior to Completion, provided that:

- (a) the payment of any such dividend would not cause a franking deficit in the franking account of the Company on or immediately after Completion; and
- (b) the total amount of any such dividend shall not exceed the total amount of Cash of the Group as at Completion and no Group Company may borrow to pay a Permitted Dividend.

Permitted Preference Share Dividend Amount means the aggregate amount of any Permitted Preference Share Dividends declared but unpaid by the Company as at the Effective Time, as set out in the Estimated Completion Statement.

Permitted Preference Share Dividends means one or more dividends declared by the Company to certain of the Preference Shareholders (being all Preference Shareholders at the record date for the dividends) prior to Completion, provided that the payment of any such dividend would not cause a franking deficit in the franking account of the Company on or immediately after Completion.

Permitted Security Interest means:

- (a) an interest of the kind referred to in section 12(3) of the PPSA where the transaction concerned is not, in substance, secure payment or performance of an obligation;
- (b) a charge or lien arising in favour of a Governmental Agency by operation of statute unless there is default in payment of money secured by that charge or lien;
- (c) any mechanics', workmen's or other like lien arising in the ordinary course of business; or
- (d) any retention of title arrangement securing the unpaid balance of purchase money for property acquired in the ordinary course of business where such unpaid balance is not yet due.

Personal Information means any information or opinion relating to an identified or reasonably identifiable individual.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Pre-Completion Returns has the meaning given in clause 11.3(a)(i).

Preference Shares means all Class A preference shares in the Company, being 12,192,462 Class A preference shares in the Company.

Preference Shareholders means all holders of Preference Shares.

Purchase Price means:

- (a) the Completion Payment; *plus*
- (b) the Deferred Consideration (paid in accordance with clause 6.5); *plus*
- (c) the Adjustment Amount (if any),

as otherwise adjusted in accordance with this Agreement.

Purchaser Group means the Purchaser and each of its Related Entities (including the Group Members on and from Completion), and **Purchaser Group Member** means any of them.

Purchaser Warranties means the representations and warranties set out in Part A of Schedule 2.

Related Entity means, with respect to a person, any person Controlling, Controlled by or under common Control with such first person.

Representative means, in relation to an entity:

- (a) a Related Entity of that entity; or
- (b) a director, officer, employee, partner, manager, investor (including a bona fide potential investor), financier (including a bona fide potential financier), insurer, auditor, custodian or adviser of that entity or of a Related Entity of that entity.

Restrained Party means the Vendor, Related Entities of the Vendor and portfolio companies in Australia that are under Control of Bain Capital LP (but excluding, for the avoidance of doubt, any portfolio companies outside of Australia).

Run-Off Insurance Amount means the amount of the premium and any associated costs, expenses, or Taxes relating to securing the Run-Off Insurance in accordance with clause 10.12.

Security Interest means any mortgage, pledge, lien or charge or any security or preferential interest or arrangement of any kind. It includes:

- (a) anything which gives a creditor priority to other creditors with respect to any asset; and
- (b) retention of title (other than in the ordinary course of day-to-day trading) and a deposit of money by way of security,

and, in each case, includes any agreement to create any of them or allow any of them to exist. It does not include:

- (a) an interest of the kind referred to in section 12(3) of the PPSA where the transaction concerned does not, in substance, secure payment or performance of an obligation; or
- (b) a Permitted Security Interest.

Shareholders' Agreement means the shareholders' agreement relating to the Company dated 30 October 2017, as amended and restated on 30 June 2021.

Shares means all the shares on issue in the Company, together with the benefit of all rights attached or accruing to those shares on and from Completion.

Straddle Returns has the meaning given in clause 11.3(a)(ii).

TAA means the *Taxation Administration Act 1953* (Cth).

Target Working Capital Amount means negative \$27,021,534.

Tax means:

- (a) all tax, levy, impost, deduction, charge, rate, duty, compulsory loan or withholding that is levied or imposed by a Taxation Authority (including, for the avoidance of doubt, GST); and
- (b) any related interest, penalty, charge, fee or other amount imposed on, or in respect of, any of the above.

and a reference to any Tax Law or Tax statute or its provisions includes that statute or those provisions in force at the time that is relevant for the purposes of a Tax Claim or the Tax Warranties (provided that such references exclude any guide, practice note, ruling or advisory that does not have the force of law and is not binding).

Tax Act means the *Income Tax Assessment Act 1936* (Cth), the *Income Tax Assessment Act 1997* (Cth), *Taxation Administration Act 1953* (Cth) or any equivalent legislation in any jurisdiction as the context requires.

Tax Claim means a Claim in relation to a Tax Warranty or under the indemnity in clause 7.8.

Tax Law means a law with respect to or imposing any Tax including (but not limited to) the Tax Act.

Tax Warranty means the Vendor Warranties under the heading "Tax Warranties" in Schedule 1.

Taxation Authority means any Governmental Agency having the administration of any Tax or Taxes.

Temporary Full Expensing Measures Opt Out Choice means a choice made in accordance with the section 40-190 of the *Income Tax (Transitional Provisions) Act 1997* (Cth) such that the decline in value of a particular depreciating asset is not to be worked out in under Subdivision 40-BB of the *Income Tax (Transitional Provisions) Act 1997* (Cth).

Title and Capacity Warranties means the Vendor Warranties in Part A and paragraphs 18 to 29 of Schedule 1.

Third Party Consent means each consent, approval, waiver, release or notification required to be obtained from a counterparty to an agreement to which a Group Member is a party, which, if not obtained by Completion, would result in the counterparty to that agreement having a right to terminate the agreement or which would result in the Group Member being in default of the agreement.

Third Party Beneficiary has the meaning given in clause 18.2.

Transaction has the meaning given to it in Recital B.

Transaction Bonuses means any unpaid bonus or incentive payments payable by any Group Member to any Employee in respect of the Transaction, inclusive of associated oncosts such as PAYG withholding superannuation, workers compensation and payroll tax, but excluding any bonus or incentive payments payable in the ordinary course of the Business and any payments in connection with the cancellation, buyback or termination of any Preference Shares that are set off against amounts owing to a Group Member.

Transaction Costs means any (unpaid as at the Effective Time) fees, costs and expenses incurred on or before Completion by any Group Member which are payable to any professional adviser engaged by any Group Member in respect of the Transaction, but excluding any fees, costs and expenses incurred by, or recharged to, any Purchaser Group Member (other than a Group Member) or any of its Representatives after Completion.

Vendor Group means the Vendor and each of its Related Entities (including Group Members up until Completion), and **Vendor Group Member** means any of them.

Vendor Warranties means the representations and warranties of the Vendor set out in Schedule 1.

Waiver Beneficiary has the meaning given in clause 8.11(d).

Warranty Claim means a Claim in relation to a Vendor Warranty (other than a Tax Warranty).

Work Safety Authority means each authority or regulator responsible for the administration, regulation and/or enforcement of any work health and safety laws, including but not limited to:

- (a) SafeWork New South Wales;
- (b) WorkSafe Victoria;

- (c) Workplace Health and Safety Queensland;
- (d) WorkSafe Western Australia;
- (e) SafeWork South Australia;
- (f) WorkSafe Tasmania;
- (g) NT WorkSafe;
- (h) WorkSafe ACT;
- (i) Comcare; and
- (j) SafeWork Australia.

Workers Compensation Insurance Authority means each authority or regulator responsible for the administration, regulation and/or enforcement of any workers compensation laws, including but not limited to:

- (a) State Insurance Regulatory Authority of New South Wales;
- (b) WorkSafe Victoria;
- (c) WorkCover Queensland;
- (d) WorkCover Western Australia;
- (e) WorkCover Tasmania;
- (f) ReturnToWork South Australia;
- (g) NT WorkSafe;
- (h) WorkSafe ACT; and
- (i) ComCare.

Working Capital means the aggregate of the items set out in the table headed “Working Capital” in Part A and Part B of Schedule 4.

W&I Insurance Costs means all costs and expenses under or relating to the W&I Insurance Policy, including the underwriting fees, insurance premium, and any associated fees, costs, taxes and broker commissions, payable in relation to the W&I Insurance Policy.

W&I Insurance Policy means the warranty and indemnity insurance policy between the W&I Insurers and the Purchaser relating to this Agreement.

W&I Insurers means Lloyd’s of London and Convex Insurance UK Limited.

W&I Policy Limit means \$30,000,000 in aggregate for all Warranty Claims and Tax Claims.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) A reference to a right or obligation of any two or more persons confers that right, or imposes that obligation, as the case may be, severally only (and not jointly or jointly and severally).
- (c) Mentioning anything after *includes*, *including*, for example, or similar expressions, does not limit what else might be included.
- (d) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or any part of it.
- (e) The following rules apply unless the context requires otherwise:

- (i) The singular includes the plural, and the converse also applies.
 - (ii) A gender includes all genders.
 - (iii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (iv) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
 - (v) A reference to a clause or Schedule is a reference to a clause of, or Schedule to, this Agreement.
 - (vi) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced except to the extent prohibited by this Agreement or that other agreement or document.
 - (vii) A reference to writing includes any method of representing or reproducing words, figures, drawings, or symbols in a visible or tangible form (and includes communication by electronic mail).
 - (viii) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
 - (ix) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
 - (x) A reference to *dollars* and \$ is to Australian currency.
 - (xi) A reference to time is to the time in Melbourne, Australia.
- (f) If the day on or by which a person must do something under this Agreement is not a Business Day, the person must do it on or by the next Business Day.
- (g) Where a calculation under this document would result in a person becoming entitled to receive, or obliged to pay, a fraction of a cent that fractional entitlement will be rounded down to the nearest whole cent.

1.3 Knowledge of the Vendor

- (a) Certain statements made in Schedule 1 are given and made by the Vendor only on the basis of its actual knowledge. For the purposes of this Agreement, the knowledge of the Vendor is limited to matters of which any of the Key Individuals is aware, or would have been aware immediately before the date of this Agreement if they had made reasonable enquiries of their direct reports as to the accuracy of the matter.
- (b) The knowledge of any person other than the persons identified above will not be imputed to the Vendor. None of the persons named in clause 1.3(a) will bear any personal liability in respect of the Vendor Warranties or otherwise under or in connection with this Agreement in the absence of fraud.

1.4 Consents or approvals

If the doing of any act, matter or thing under this Agreement is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion, unless expressly provided otherwise.

1.5 Method of payment

- (a) Each payment required to be made under this Agreement must be made by direct deposit of cleared funds to the credit of one or more bank accounts specified in writing by the relevant payee, such accounts to be specified not less than 5 Business Days prior to the due date of such payment.
- (b) Unless otherwise agreed by the relevant payee, any payment under this Agreement received and cleared for value in the nominated bank account of a relevant payee:
 - (i) on or before 4 p.m. on a Business Day in Sydney (Australia), will be taken to have been made on that Business Day in Sydney (Australia); and
 - (ii) after 4 p.m. on a Business Day in Sydney (Australia), will be taken to have been made on the next Business Day in Sydney (Australia) after the day on which payment was transferred or made.
- (c) Without limitation to any other provision in this clause 1.5, the Deferred Consideration must be paid in the currency of the United States of America.

1.6 Waiver of pre-emptive rights

The Vendor irrevocably waives and releases all restrictions on transfer (including pre-emptive rights, tag along rights, first rights of refusal and notice periods) that exist in respect of the Shares as required for any party to enter into, or perform any of its obligations under, this Agreement or any transaction contemplated by this Agreement.

1.7 Counterclaim, set-off, deduction, withholding

Any payment made under this Agreement must be made free and clear of any counterclaim, set-off, deduction or withholding, except where that set-off, deduction or withholding is required or compelled by law or in accordance with clause 6.3.

1.8 Interest on amounts payable

If any party fails to pay any amount payable by it under or in accordance with this Agreement (including the Purchase Price) that party must, if demand is made, pay simple interest on that amount from the due date for payment until that amount is paid in full at the rate per annum which is the sum of the Interest Rate on the date on which the payment was due, plus a margin of 3%, calculated daily. The right to require payment of interest under this clause is without prejudice to any other rights the non-defaulting party may have against the defaulting party at law or in equity.

2 Conditions Precedent

2.1 Conditions Precedent

Clauses 3 and 5 will not bind the parties and Completion will not proceed unless and until each of the following occur:

- (a) **(FIRB)** either:
 - (i) the Treasurer of the Commonwealth of Australia (or their delegate) provides written notice under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (**FATA**) stating that, or to the effect that, the Commonwealth Government has no objection to the acquisition contemplated by this Agreement (with or without conditions); or
 - (ii) following the Purchaser giving notice under the FATA of the acquisition contemplated by this Agreement, the Treasurer of the Commonwealth of Australia

becomes precluded by passage of time from making any order or decision under Division 2 of Part 3 of the FATA in respect of the acquisition contemplated by this Agreement, and the 10 day period referred to in section 82(2)(a) of the FATA has ended or the period referred to in section 82(2)(b) of the FATA has ended (whichever is applicable); and

- (b) (**Lease change of control consents**) with respect to at least 80% of the Campus Leases (in aggregate), one or more of the following applies:
- (i) the relevant Group Member has obtained any Third Party Consent from the relevant landlord under the applicable Campus Lease; or
 - (ii) the relevant landlord under the Campus Lease agrees or offers to provide, or otherwise indicates that it will provide, the Third Party Consent to the relevant Group Member, conditional on new or modified lease terms offered by the landlord in respect to the relevant Campus Lease; or
 - (iii) no consent is required in respect of the Campus Lease,
- in each case, in relation to the acquisition of the Shares by the Purchaser and the change of control of any Group Member resulting from that acquisition of the Shares,

(the **Conditions Precedent**).

2.2 Parties must co-operate

Each party must co-operate with the other and use reasonable endeavours to procure that the Conditions Precedent are satisfied as soon as reasonably possible, and in any event on or before the Condition Precedent End Date.

2.3 Specific obligations of co-operation

- (a) In respect of the application for the purpose of enabling the Condition Precedent in clause 2.1(a) to be satisfied, the Purchaser must:
- (i) supply all necessary and appropriate information to any Governmental Agency in respect of the application; and
 - (ii) not withdraw or procure the withdrawal of any application.
- (b) In respect of the Vendor's actions to satisfy the Condition Precedent in clause 2.1(b), the Vendor must act reasonably and in good faith, and in particular must not:
- (i) encourage or incite any landlords under Campus Leases to impose conditions (including new or modified lease terms) on any Third Party Consent; or
 - (ii) offer new or modified lease terms to, or invite or request new or modified lease terms from, any landlords under Campus Leases without the Purchaser's consent.
- (c) Each party must:
- (i) keep the other party reasonably informed in a timely manner (and otherwise promptly on request from the other party) regarding the status of the Condition Precedent, including any relevant discussions, negotiations or other communications with any Governmental Agency;
 - (ii) take all steps necessary to ensure that all the Conditions Precedents for which it is responsible (as specified in clause 2.3(d)) are satisfied, and remain satisfied, as soon as reasonably practicable after the date of this Agreement and before the Condition Precedent End Date; and

(iii) promptly notify the other party on becoming aware of (and provide evidence confirming) the satisfaction of a Condition Precedent or of a Condition Precedent becoming incapable of being satisfied.

(d) For the purposes of clause 2.3(c)(ii):

- (i) the Purchaser will be regarded as being responsible for the satisfaction of the Condition Precedent in clause 2.1(a); and
- (ii) the Vendor and the Purchaser will be regarded as being responsible for the satisfaction of the Conditions Precedent in clause 2.1(b).

2.4 Waiver

- (a) The Condition Precedent in clause 2.1(a) cannot be waived.
- (b) The Condition Precedent in clause 2.1(b) can be waived only by the Purchaser.

2.5 Termination before Completion

- (a) Subject to clause 2.5(b), if a Condition Precedent:
 - (i) is not satisfied in accordance with the terms of this Agreement on or before the Condition Precedent End Date; or
 - (ii) become incapable of satisfaction,the Purchaser or the Vendor may terminate this Agreement by giving two Business Days' written notice to the other party.
- (b) A party may only terminate under this clause 2.5 if that party has complied with clause 2.2 and clause 2.3 and the failure to satisfy a Condition Precedent was not caused by or materially contributed to by the default of that party.

3 Sale and Purchase of Shares

3.1 Sale and purchase

The Vendor agrees to sell, and the Purchaser agrees to purchase, the Shares free from all Security Interests (including all Permitted Security Interests) on the terms set out in this Agreement.

3.2 Title and property

Title to and property in the Shares:

- (a) until Completion, remains solely with the Vendor; and
- (b) subject to the provisions of this Agreement, passes to the Purchaser with effect from Completion.

4 Price and Payment

4.1 Purchase Price

The aggregate price payable by the Purchaser to the Vendor for the sale of the Shares is the Purchase Price.

4.2 Payment of Purchase Price

The Purchase Price will be paid and provided as follows:

- (a) on the Completion Date, the Purchaser must pay the Completion Payment in accordance with clause 5.5; and
- (b) the Deferred Consideration must be paid in accordance with clause 6.5; and
- (c) the Adjustment Amount must be paid by the Purchaser or the Vendor (as applicable) in accordance with clause 6.

5 Completion

5.1 Estimated Completion Statement

- (a) At least 5 Business Days before the Completion Date (or on such other date as the Vendor and the Purchaser agree in writing), the Vendor must give the Purchaser the Estimated Completion Statement, specifying each matter itemised in Schedule 4 including the following:
 - (i) the External Debt Amount;
 - (ii) the Permitted Preference Share Dividend Amount;
 - (iii) the Estimated Net Debt Amount;
 - (iv) the Estimated Working Capital Amount;
 - (v) the Completion Payment;
 - (vi) the Completion Transaction Bonuses; and
 - (vii) the Completion Transaction Costs,which must be prepared by the Vendor in good faith, together with working papers and reasonable supporting documentation used in preparing the Estimated Completion Statement.
- (b) The Vendor will (acting reasonably) consider any comments which the Purchaser may provide on the Estimated Completion Statement by the date 2 Business Days before the Completion Date. To the extent that the Vendor accepts any changes proposed by the Purchaser, the Vendor will provide a replacement Estimated Completion Statement which accepts those changes and is otherwise in the same terms as the Estimated Completion Statement provided under clause 5.1(a) by the Business Day before the Completion Date.
- (c) The Estimated Completion Statement provided under clause 5.1(a), or where applicable under clause 5.1(b) (and the amounts set out therein) are binding on the parties for the purpose of allowing Completion to take place and no party is entitled to delay or defer Completion or withhold any part of the Completion Payment, the External Debt Amount, the Permitted Preference Share Dividend Amount, the Completion Transaction Bonuses or the Completion Transaction Costs based on any disagreement in relation to any matter set out in the Estimated Completion Statement, including the Vendor's calculation of the Estimated Working Capital Amount and Estimated Net Debt Amount.

5.2 Notice to Vendor

At least 5 Business Days prior to the Completion Date, the Purchaser must give the Vendor a notice setting out the details of:

- (a) each person who will be appointed as a new director, secretary and public officer of the Company from Completion, together with all of the details necessary to effect such appointments and original signed consents to act of such persons; and

- (b) each person who will be required to resign as directors, secretary and public officer of the Group Members effective on Completion.

5.3 Completion place and time

Completion of the sale and purchase of the Shares will take place on the Completion Date by electronic exchange (at a time that is the Completion Date in both Sydney, Australia and Boston, United States of America) or at any other place as the Vendor and the Purchaser may agree in writing.

5.4 Obligations of Vendor on Completion

On, or prior to, the Completion Date, the Vendor must:

- (a) ensure that valid resolutions of the board of directors of the Company are passed pursuant to which, subject to Completion occurring:
 - (i) such persons as the Purchaser notifies to the Vendor under clause 5.2(a) are appointed to the position in respect of the Company specified in the notice, subject to the receipt of duly signed consents to act of such persons;
 - (ii) such persons as the Purchaser notifies to the Vendor under clause 5.2(b) resign or are removed from the position in respect of the Company specified in the notice; and
 - (iii) the transfer of the Shares to the Purchaser, the cancellation of the existing share certificates for the Shares and the delivery by the Company to the Purchaser of new share certificates for the Shares in the name of the Purchaser are each approved,and deliver a copy of the resolutions to the Purchaser;
- (b) deliver to the Purchaser copies of the resignations of the persons the Purchaser notifies to the Vendor under clause 5.2(b), in a form satisfactory to the Purchaser acting reasonably;
- (c) deliver to the Purchaser instruments of transfer of the Shares in favour of the Purchaser (in a form acceptable to the Purchaser, acting reasonably) duly executed by the Vendor;
- (d) deliver to the Purchaser evidence, satisfactory to the Purchaser acting reasonably, that all Security Interests (including all Permitted Security Interests) over the Shares have been released;
- (e) deliver to (or at the direction of) the Purchaser all Business Records in the Group's possession, which shall be deemed to be delivered if made available at the relevant Group Member's registered office;
- (f) procure that the Company update its register of members to reflect the transfer of the Shares to the Purchaser and deliver to the Purchaser a copy of the updated register of members;
- (g) deliver to the Purchaser copies of all resolutions and other documents approving and evidencing (to the satisfaction of the Purchaser, acting reasonably) the buyback and cancellation of the Preference Shares, in accordance with clause 10.7(b);
- (h) deliver to the Purchaser evidence, in a form satisfactory to the Purchaser (acting reasonably) that:
 - (i) the Shareholders' Agreement has been terminated in accordance with clause 10.11;

- (ii) the Management Equity Plan has been terminated in accordance with clause 10.7; and
 - (iii) the Management Agreement between the Company, Nemo (BC) Midco Pty Ltd and Nemo (BC) Bidco Pty Ltd, OAC Group Pty Ltd and Bain Capital Private Equity LP dated 21 November 2016 (**Bain Management Agreement**) has been terminated and all amounts payable by a Group Member under the Bain Management Agreement have been paid, waived or forgiven; and
- (i) deliver to, or at the direction of, the Purchaser an electronic copy of the Data Room Documentation.

5.5 Obligations of the Purchaser on Completion

On the Completion Date, the Purchaser must:

- (a) pay the Completion Payment to the Vendor (in accordance with clause 1.5);
- (b) pay the External Debt Amount, the Completion Transaction Bonuses and the Permitted Preference Share Dividend Amount to the Company by way of loan;
- (c) pay the Completion Transaction Costs (in accordance with the details set out in the Estimated Completion Statement);
- (d) deliver to the Vendor:
 - (i) a counterpart of the instruments of transfer of the Shares duly executed by the Purchaser;
 - (ii) evidence that the W&I Insurance Policy is effective, including that the Purchaser has paid all of the W&I Insurance Costs (or that the W&I Insurance Costs will be paid within the time required under the W&I Insurance Policy) and that each condition to the obligations under the W&I Insurance Policy of the W&I Insurers has been satisfied (or will be satisfied immediately on Completion occurring); and
 - (iii) a duly signed copy of the 'no claims declaration' to be given under the W&I Insurance Policy as at immediately prior to Completion.

5.6 Payment of External Debt Amount

At Completion, the Vendor must:

- (a) procure that the Company applies the External Debt Amount received under clause 5.5(c) in repayment of all amounts payable under the External Debt Facility;
- (b) deliver to the Purchaser confirmation and evidence that the External Debt Facility has been discharged and terminated and the Group Members have no further obligations under the External Debt Facilities; and
- (c) deliver to the Purchaser evidence that any Security Interests provided by a Group member under or in connection with the External Debt Facility have been or will be released and discharged simultaneously with the payment of the External Debt Amount on Completion.

5.7 Payment of Permitted Preference Share Dividends

At Completion, the Vendor must procure that the Company applies the Permitted Preference Share Dividend Amount received under clause 5.5(c) to pay the amounts payable under the Permitted Preference Share Dividends.

5.8 Simultaneous actions at Completion

- (a) Unless otherwise agreed by the Vendor and the Purchaser, and except as provided for in this clause 5.6, all actions at Completion are interdependent and will be deemed to take place simultaneously and no delivery or payment will be deemed to have been made until all deliveries and payments under this Agreement due to be made at Completion have been made. If one such action does not take place, then without prejudice to any rights available to any party as a consequence:
- (i) there is no obligation on any party to undertake or perform any of the other actions;
 - (ii) to the extent that such actions have already been undertaken, the parties must do everything reasonably required to reverse those actions; and
 - (iii) each party must return to the other all documents delivered to it under clauses 5.4 or 5.5.
- (b) Completion is taken to have occurred when each party has performed all its obligations under clause 5.4, 5.5 and 5.6.

6 Adjustments to the Completion Payment

6.1 Preparation and review of Completion Statement

- (a) Subject to Completion, the Purchaser must as soon as reasonably possible and within 45 Business Days after Completion, unless the Vendor and the Purchaser agree otherwise in writing, prepare the Completion Statement and provide the Completion Statement (together with all relevant working papers) to the Vendor.
- (b) The Vendor must undertake a review of the Completion Statement within 20 Business Days after it is provided by the Purchaser in accordance with clause 6.1(a) or such other date as the Vendor and the Purchaser may agree in writing (**Adjustment Review Date**).
- (c) If the Completion Statement delivered under clause 6.1(a) is not disputed by the Vendor by way of a Dispute Notice in accordance with clause 6.2(a) by 5 p.m. on the Adjustment Review Date, it will be taken to be the final Completion Statement.
- (d) If the Completion Statement delivered under clause 6.1(a) is disputed by the Vendor by way of a Dispute Notice in accordance with clause 6.2(a) by 5 p.m. on the Adjustment Review Date, the dispute the subject of the Dispute Notice (**Dispute**) will be determined under clause 6.2.

6.2 Dispute resolution procedure

- (a) If the Vendor disputes part or all of the Completion Statement, the Vendor may give a dispute notice to the Purchaser (**Dispute Notice**) by 5 p.m. on the Adjustment Review Date, which must set out:
- (i) full and specific details of each of the matters the subject of the Dispute;
 - (ii) a separate dollar value for each of those matters; and
 - (iii) full and specific details of the reasons why each of those matters is disputed.
- (b) Within 20 Business Days after the Vendor delivers a Dispute Notice to the Purchaser, the Purchaser must deliver to the Vendor a response in writing on the matters in Dispute (**Response**). If the Purchaser does not deliver a Response within that time, the Completion Statement will be deemed to be amended as required by the Vendor under

the Dispute Notice and will be taken to comprise the final Completion Statement (unless the Vendor and the Purchaser agree otherwise in writing).

- (c) If the Dispute is not resolved within 10 Business Days after the Response is provided to the Vendor, the Vendor and the Purchaser must (and any of them may individually) submit the Dispute for determination to an Expert who will determine the matters the subject of the Dispute.
- (d) The Vendor and the Purchaser must select the Expert by agreement in writing, and failing such agreement within 5 Business Days after they commence to discuss the selection of the Expert, must (and any of them individually may) refer selection of the Expert to the Chair of the Resolution Institute, and must promptly engage the Expert selected by agreement or the Chair of the Resolution Institute.
- (e) The Vendor and the Purchaser must provide the Expert with a copy of the following information, unless the Vendor and Purchaser agree otherwise in writing, promptly after it is engaged:
 - (i) the Completion Statement (together with all relevant working papers);
 - (ii) the Dispute Notice;
 - (iii) the Response; and
 - (iv) an extract of the relevant provisions of this Agreement.
- (f) Each party may make written submissions to the Expert within 5 Business Days of the Expert's appointment.
- (g) The Vendor and the Purchaser must instruct the Expert to determine the matters in Dispute and complete its determination not later than 20 Business Days after receipt of all of the information in clause 6.2(e) and any submissions provided under clause 6.2(f) (or such other period agreed in writing by the Vendor and the Purchaser, acting reasonably).
- (h) The Vendor and the Purchaser must promptly supply the Expert with any assistance and co-operation requested in writing by the Expert in connection with its determination. All correspondence between the Expert and a party must be copied to the Vendor and the Purchaser together.
- (i) The Vendor and the Purchaser must instruct the Expert to determine the Dispute:
 - (i) by applying the Accounting Principles to the Completion Statement;
 - (ii) adopting procedures directed by the Vendor and the Purchaser by agreement in writing and in the absence of any such direction, as decided appropriate by the Expert; and
 - (iii) as an expert and not as an arbitrator.
- (j) The parties agree that the Expert's written determination will be final and binding on the parties in the absence of manifest error and the Completion Statement will be deemed to be amended or remain unamended in accordance with the Expert's determination and will be taken to comprise the final Completion Statement.
- (k) The cost of a determination by the Expert must be borne by the Vendor and the Purchaser in such manner as the Expert determines (having regard to the merits of the Dispute) and in the absence of such a determination, equally between the Vendor (on the one hand) and the Purchaser (on the other hand).

6.3 Payment of Adjustment Amount

- (a) If the Adjustment Amount is:
 - (i) a positive amount, the Purchaser must pay to the Vendor the Adjustment Amount;
 - (ii) a negative amount, the Vendor must pay the Purchaser the absolute value of the Adjustment Amount (including in accordance with clause 6.5); or
 - (iii) zero, no Adjustment Amount shall be payable.
- (b) Despite any other provision of this Agreement, no adjustment to the Purchase Price will be made unless the Adjustment Amount is greater than plus or minus \$100,000.
- (c) Any payments made under this clause 6.3 are adjustments to the Purchase Price.

6.4 Payment Date

- (a) If the Completion Statement is not disputed by a Dispute Notice from the Vendor to the Purchaser by 5 p.m. on the Adjustment Review Date, the Adjustment Amount must be paid to the Vendor or the Purchaser (as the case requires) within 5 Business Days after the Adjustment Review Date.
- (b) If the Completion Statement is disputed by a Dispute Notice from the Vendor to the Purchaser by 5 p.m. on the Adjustment Review Date:
 - (i) the portion of the Adjustment Amount not in Dispute must be paid to the Vendor or the Purchaser (as the case requires) within 5 Business Days after the Adjustment Review Date; and
 - (ii) the balance of the Adjustment Amount must be paid to the Vendor or the Purchaser (as the case requires) within 5 Business Days after the date on which the Dispute is determined by the Expert or otherwise resolved by agreement in writing by the Vendor and the Purchaser.

6.5 Payment of Deferred Consideration

On the date 18 months after the Completion Date, the Purchaser must pay the Deferred Consideration to the Vendor (in accordance with clause 1.5), provided that the Purchaser may set off any amount owed by the Vendor to the Buyer against the Deferred Consideration but only if such amount is agreed between the Vendor and the Buyer (in writing) or the subject of an order from a court of competent jurisdiction.

7 Vendor's Warranties

7.1 Vendor's Warranties

The Vendor represents and warrants to the Purchaser that each of the Vendor Warranties is true and correct.

7.2 Construed independently

Each of the Vendor Warranties must be construed independently and is not limited by reference to another Vendor Warranty.

7.3 Reliance

The Vendor acknowledges that the Purchaser has entered into this Agreement and will complete this Agreement in reliance on the Vendor Warranties.

7.4 Other warranties and conditions excluded

Except as expressly set out in this Agreement, all terms, conditions, warranties and statements, (whether express, implied, written, oral, collateral, statutory or otherwise) relating to any of the Shares, the Group or the Business are excluded to the maximum extent permitted by law (other than in the case of fraud) and, to the extent they cannot be excluded, the Purchaser waives any right to claim and otherwise undertakes not to claim for any Liability incurred in relation to them (other than in the case of fraud) to the maximum extent permitted by law.

7.5 When Vendor's Warranties given

Each of the Vendor Warranties:

- (a) is given as at the date of this Agreement and as at the time immediately before Completion (except that where a Vendor Warranty is expressed to be given only as at another date or time, that Vendor Warranty is given only at that date or time); and
- (b) will remain in full force and effect after Completion despite Completion.

7.6 Notification of Warranty breaches

The Vendor must promptly notify the Purchaser if between the date of this Agreement and Completion, it becomes aware that:

- (a) a Vendor Warranty was not true when given, or has ceased to be true; or
- (b) an act or event has occurred that will result in a Vendor Warranty not being true and correct when given immediately before Completion,

and must also provide the Purchaser with details of that fact.

7.7 Indemnity

The Vendor indemnifies the Purchaser against any Liabilities or loss that the Purchaser may incur to the extent caused by any breach of the Vendor Warranties.

7.8 Tax indemnity

- (a) Subject to Completion and clause 7.8(b), the Vendor indemnifies and agrees to keep indemnified the Purchaser against any:
 - (i) Tax payable by any Group Member to the extent that Tax:
 - (A) relates to any period, or part period, up to and including Completion, after taking into account any concurrent tax deduction accruing to the Purchaser or Group Member which the Purchaser or Group Member has utilised no later than the financial year in which the relevant Claim under this indemnity is made;
 - (B) relates directly to the occurrence of an act, omission, transaction or event of any Group Member that occurs on or before Completion; or
 - (C) relates directly to a failure by any Group Member to comply with a Tax Law that was required to be complied on or before Completion; or
 - (ii) reasonable costs and expenses in relation to (but not including) any Tax incurred by or on behalf of a Group Member to the extent those costs or expenses arise from or relate to any of the matters for which the Vendor is liable under this clause 7.8(a) after taking into account any tax deduction accruing to the Purchaser or Group Member which the Purchaser or Group Member has utilised no later than

the financial year in which the relevant Claim under this indemnity is made, but not including any internal costs of a Group Member or the Purchaser.

- (b) The Vendor is not obliged to pay any amount under clause 7.8(a) unless the Purchaser gives to the Vendor, as soon as reasonably practicable after receipt by the Purchaser and in any event, within 30 Business Days, a notice of any relevant assessment from a Taxation Authority and a copy of the relevant parts of that assessment. If, as a result of non-compliance by the Purchaser, the amount of Tax, costs or expenses within the scope of clause 7.8(a) increases, the Vendor will not be liable to pay the component of the Tax and costs which would not have been incurred had the Purchaser complied with that clause.
- (c) To the extent that the Purchaser has recovered an amount under clause 7.8(a) in respect of a matter that is also the subject matter of a Vendor's Warranty, the Purchaser will not be entitled to recover that amount in respect of any breach of that Vendor's Warranty if the effect of doing so would be double recovery for the same loss.

8 Limitations on Liability

8.1 Disclosures

The Purchaser will not make a Claim and agrees that the Vendor will not have any Liability (whether by way of damages or otherwise) to make any payment under or in connection this Agreement, to the extent that the Claim (other than a Warranty Claim relating to a breach of a Title and Capacity Warranty) is based on any fact, matter or circumstance:

- (a) expressly provided for in this Agreement;
- (b) Fairly Disclosed in the Disclosure Material;
- (c) within the actual knowledge of any Purchaser Group Member (other than any Group Member) prior to the date of this Agreement;
- (d) relating to any Liability to the extent there is a specific accrual, allowance, provision or reserve for that Liability in the Completion Statement; or
- (e) which would have been disclosed in searches conducted by the Purchaser against the names of the Group Members of:
 - (i) the Australian Securities and Investments Commission (**ASIC**) (but without inspecting documents lodged with ASIC) on 14 February 2022;
 - (ii) the Personal Property Securities Register on 12 February 2022;
 - (iii) the public records maintained by the High Court of Australia on 21 February 2022, the Federal Court of Australia on 21 February 2022, the Supreme Court of Victoria on 21 February 2022, the Supreme Court of New South Wales on 23 February 2022 and the Supreme Court of Queensland on 21 February 2022; and
 - (iv) Intellectual Property Australia on 2 March 2022.

8.2 Claims and conditions of payment

Subject to clause 8.11, each of the following applies in connection with this Agreement.

- (a) (**Notice of Claims**) The Vendor will not have any Liability (whether by way of damages or otherwise) in connection with any Claim unless the Claim is made in writing by the Purchaser to the Vendor as soon as reasonably practicable (and in any event within 15 Business Days) after the Purchaser becomes aware of the likelihood of a Claim and, in any event must make such a Claim:

- (i) in the case of a Warranty Claim for breach of a Title & Capacity Warranty or a Tax Claim, on or before the date that is 7 years after the Completion Date; and
- (ii) in the case of any other Warranty Claim, on or before the date that is 3 years after the Completion Date; and
- (iii) in the case of any other Claim (other than Claims under clause 12, 13, 15, 16 and 18 (but not clause 18.1(b) and 18.2)), on or before the date that is 12 months after the Completion Date.

(b) **(Details of Claims)**

- (i) The Purchaser must include in a notice given under clause 8.2(a), to the extent known by the Purchaser, reasonable details of the fact, matter or circumstance anticipated to give rise to the Claim, the nature of the Claim and the Purchaser's calculation of the loss suffered. The Purchaser must also, on a prompt and on-going basis, keep the Vendor reasonably informed of developments in relation to the potential Claim the subject of a notice of Claim under clause 8.2(a).
- (ii) Any Claim by the Purchaser against the Vendor will be taken to be waived or withdrawn and will be barred and unenforceable (if such Claim has not been previously satisfied, settled or withdrawn) unless legal proceedings in respect of the Claim have been issued and served on the Vendor within 12 months after the service of the notice of such Claim on the Vendor in accordance with clause 8.2(a) or 24 months in the case of a Tax Claim. For this purpose, legal proceedings will not be deemed to have been commenced unless they have been properly issued and validly served upon the Vendor.

(c) **(Maximum aggregate liability for all Claims)** The maximum aggregate amount that the Purchaser Group may recover from the Vendor (whether by way of damages or otherwise) in respect of all Claims whenever made is an amount equal to:

- (i) in respect of all Warranty Claims relating to breach of the Title and Capacity Warranties, the Purchase Price;
- (ii) in respect of all Warranty Claims (other than Warranty Claims relating to breach of the Title and Capacity Warranties) and Tax Claims, the W&I Policy Limit; and
- (iii) in respect of all other Claims, 15% of the Purchase Price.

(d) **(Thresholds)** the Vendor will not have any Liability (whether by way of damages or otherwise) in connection with any Warranty Claim (other than a Title and Capacity Claim) or Tax Claim:

- (i) if for any individual item, or series of related items, the amount finally adjudicated against, or agreed with, the Vendor in respect of the Claim is less than \$220,000; and
- (ii) until the total of all amounts finally adjudicated against, or agreed with, the Vendor in respect of all Claims not excluded by clause 8.2(d)(i) exceeds \$4,400,000,

in which event, subject to clause 8.2(c), the Vendor is liable for so much of that amount that exceeds \$2,200,000.

(e) **(Actions of the Purchaser)** The Liability of the Vendor (whether by way of damages or otherwise) in respect of any Claim will be reduced or extinguished (as the case may be) to the extent that the Claim or the Liability of that Vendor has arisen as a result of any act or omission after Completion by or on behalf of any Purchaser Group Member that is (i) outside the ordinary course of business and not required by law, and (ii) that the

Purchaser Group Member was aware or ought reasonably be aware would give rise to a Claim against the Vendor, including any breach by the Purchaser of any provision of this Agreement.

- (f) **(Actions of the Vendor)** The Liability of the Vendor (whether by way of damages or otherwise) in respect of any Claim will be reduced or extinguished (as the case may be) to the extent that the Claim or the Liability of that Vendor has arisen as a result of any act by or on behalf of that Vendor where any Purchaser Group Member (other than a Group Member) has expressly requested or consented to that act.
- (g) **(No Consequential Loss)** No Party will have any Liability (whether by way of damages or otherwise) in connection with any Claim to the extent that the relevant Claim comprises or includes any Consequential Loss.
- (h) **(No multiple Claims)** The Vendor will not have any Liability (whether by way of damages or otherwise) to any Purchaser Group Member in connection with any Claim to the extent that a Purchaser Group Member recovers, or receives compensation for Liability arising out of any fact, matter or circumstance giving rise to the Claim and would otherwise receive double compensation for the relevant matter.
- (i) **(No Liability until Completion)** The Vendor will not have any Liability (whether by way of damages or otherwise) under any Warranty Claim or Tax Claim unless and until Completion has occurred.
- (j) **(General limitations)** The Vendor will not have any Liability (whether by way of damages or otherwise) in connection with any Claim to the extent that any Liability:
 - (i) **(contingent liability)** is contingent, prospective, not ascertained or ascertainable, unless and until such Liability becomes an actual, ascertainable and non-contingent Liability, provided that nothing in this clause 8.2(j)(i) will prevent or disentitle the Purchaser from providing notice of such Claim under clause 8.2(a) or commencing legal proceedings in respect of such Claim;
 - (ii) **(breach of law)** could only have been avoided by the Vendor breaching its statutory obligations;
 - (iii) **(change in law or interpretation)** arises from:
 - (A) any legislation not in force or announced, at the date of this Agreement including legislation first announced after the date of this Agreement which takes effect retrospectively;
 - (B) a change in the judicial interpretation of the law in any jurisdiction after the date of this Agreement; or
 - (C) a change in the regulatory or administrative practice of any Governmental Agency after the date of this Agreement including any change which has not been announced at the time of entry into this Agreement and takes effect retrospectively;
 - (iv) **(change in accounting policy)** arises from a change in any accounting policy or practice of a Group Member after the date of this Agreement, other than as a result of a change in an Accounting Standard announced before entry into this Agreement or any change required to bring the accounting policies or practices into line with the generally accepted accounting principles and practices in Australia in relation to the Business;

- (v) (**remediable loss**) is remediable and is remedied to the reasonable satisfaction of the Purchaser within 20 Business Days after the Vendor receives written notice of the Claim in accordance with clause 8.2(a);
- (vi) (**mitigation of loss**) arises from any Purchaser Group Member (other than a Group Member before Completion) failing to take reasonable steps to mitigate any loss and which would have reduced the amount of the loss;
- (vii) (**inconsistent Tax position**) arises from a Group Member taking a position in relation to the application of a Tax law, including by way of making or changing an election or choice for Tax purposes, that is inconsistent with the position taken by the Group Member before Completion in relation to the preparation of returns prior to Completion or in relation to the calculation of any reserve or provision relating to Tax in the Completion Statement; or
- (viii) (**failure to take action**) arises from a Group Member failing to provide the Vendor with information reasonably requested by the Vendor in relation to any Tax Claim or to take any action after Completion required by, or that should reasonably be taken under, any applicable Tax law in relation to any Tax (including any failure to take any such action within the time allowed);
- (ix) (**provision in Completion Statement**) has been included as a specific provision, allowance, reserve or accrual in the Completion Statement; or
- (x) (**GST**) the Tax is GST which is recoverable from the recipient of a supply or for which an input tax credit is available.

8.3 Purchaser's acknowledgments

The Purchaser acknowledges and agrees that:

- (a) (**contractual promises**) the Vendor Warranties are:
 - (i) contractual promises only and are not otherwise actionable at common law or under statute; and
 - (ii) contractual warranties only, which form part of, and are given subject to, the terms and conditions of this Agreement (including being subject to disclosure pursuant to clause 8.1 and being subject to the other qualifications, limitations and conditions set out in the balance of this clause 8 and in clause 7);
- (b) (**no other representation**) except as expressly set out in this Agreement, the Vendor, nor any of its Representatives or any other person acting on behalf of or associated with the Vendor has made any representation, given any advice or given any warranty or undertaking, promise or forecast of any kind in relation to the Transaction, the Shares, any Group Member, the Business, the Disclosure Material or this Agreement;
- (c) (**due diligence**) it has had the opportunity to conduct a due diligence review in respect of the Group, the Shares and the Business including a reasonable review of the Disclosure Material and to submit requests for further information and review responses to those requests;
- (d) (**own investigations**) it has made, and relies upon, its own searches, investigations, enquiries and evaluations in respect of the Group, the Shares and the Business and its own evaluation of any material provided by (or on behalf of) any Vendor Group Member to the Purchaser or its advisers before the date of this Agreement, including the Disclosure Material;

- (e) **(independent advice)** it has had the benefit of independent legal, financial, accounting and tax advice relating to the Disclosure Material, the Transaction, the Shares, any Group Member, the Business and this Agreement;
- (f) **(no inducement or reliance)** without limiting the remainder of this clause 8.3, and except for the Vendor Warranties:
 - (i) irrespective of whether or not its due diligence was as full or exhaustive as it would have wished, it has nevertheless independently and without the benefit of any inducement, representation or warranty from any Vendor Group Member or any of their respective Representatives, other than the Vendor Warranties, determined to enter into this Agreement;
 - (ii) other than the Vendor Warranties made by the Vendor, it does not rely on any statement, representation, warranty, condition, Forward Looking Information or other conduct which may have been made by or on behalf of any Vendor Group Member or any of their respective Representatives;
 - (iii) no other statement, representation, warranty, condition or conduct has been warranted to any Purchaser Group Member as being true; or
 - (iv) no other statement, representation, warranty, condition or conduct by any Vendor Group Member or any of their respective Representatives has been relied on by the Purchaser as being important to the Purchaser's decision to enter into this Agreement or agree to any or all of its terms;
- (g) **(disclosure)** the disclosures regarding the Group (including any Forward Looking Information and other information contained in material provided to the Purchaser Group Members (other than Group Members) and their respective Representatives and made in management presentations) contained in the Data Room or otherwise are accepted by the Purchaser and that no Vendor Group Member nor any of their respective Representatives has made or makes any representation or warranty as to the accuracy or completeness of those disclosures or that information for which any such person may be liable, except the Vendor Warranties;
- (h) **(Forward Looking Information)** notwithstanding anything else in this document and subject to the terms of this clause 8.3, the Vendor is not under any obligation to provide the Purchaser or its Representatives with any Forward Looking Information. If the Purchaser or any of its Representatives has received any Forward Looking Information (including in connection with any financial analysis or modelling conducted by the Purchaser or any of its Representatives), the Purchaser agrees that:
 - (i) there are uncertainties inherent in attempting to make forward looking opinions, estimates, projections, business plans, budgets and forecasts and the Purchaser is familiar with these uncertainties;
 - (ii) the Purchaser will make its own evaluation of the adequacy and accuracy of all Forward Looking Information furnished to it;
 - (iii) no representation or warranty of any kind is given in connection with any Forward Looking Information; and
 - (iv) to the extent permitted by law, no Vendor Group Member nor any of their respective Representatives is liable in connection with any claim that arises out of or relates to any Forward Looking Information, in the absence of fraud;
- (i) **(no duty of care)** the Vendor and their respective Representatives:

- (i) do not accept any duty of care in relation to the Purchaser in respect of any disclosure or the provision of any information; and
 - (ii) in the absence of fraud, are not liable to the Purchaser if, for whatever reason, any disclosure or information is or becomes inaccurate or misleading in any particular way, except under the Vendor Warranties;
- (j) **(no other claims)** any claim by the Purchaser must be based solely on and limited to the express provisions of this Agreement and, subject to any law to the contrary and except as provided in the Vendor Warranties and in the absence of fraud:
- (i) all terms, conditions, warranties, representations and statements, whether express, implied, written, oral, collateral, statutory or otherwise, are excluded and, to the extent permitted by law, the Vendor disclaims all liability in relation to them; and
 - (ii) to the extent that any such terms, conditions, warranties, representations and statements cannot be excluded, then the Purchaser, to the extent permitted by law, irrevocably waives all rights and remedies that it may have in relation to and releases each Vendor Group Member and their respective Representatives from any liabilities in respect of such terms, conditions, warranties, representations and statements.

The Purchaser acknowledges that the Vendor has agreed to sell the Shares and enters into this Agreement relying on the acknowledgements, representations and warranties in this clause 8.3 and would not be prepared to sell the Shares on any other basis.

8.4 Statutory actions

To the maximum extent permitted by law, each party agrees not to make and waives any right it might have to make any Claim against (and must procure that each of its Representatives must not make and waives) the other party or any of its Representatives, whether in connection with the Vendor's Warranties or otherwise, under:

- (a) Part 7.10 of the Corporations Act;
 - (b) the *Australian Securities and Investments Commission Act 2001* (Cth) in connection with a breach of section 12DA of that Act;
 - (c) the *Competition and Consumer Act 2010* (Cth) or the Australian Consumer Law as contained in Schedule 4 therein,
- or any corresponding or similar provision of any legislation in any relevant jurisdiction, Australian State or Territory legislation or any other applicable laws.

8.5 Insurance and recovery under any other right

- (a) Where, in respect of any fact, matter or circumstance which gives or may give rise to a Claim, any Purchaser Group Member recovers or is entitled to recover from a person other than the Vendor in respect of any loss or damage suffered by the Purchaser Group Member arising out of the fact, matter or circumstance to which the Claim or potential Claim relates, the Purchaser must:
 - (i) use all reasonable endeavours to recover that sum or assist the Purchaser Group Member to recover that sum; and
 - (ii) reduce the amount of the Claim to the extent that sum is recovered.
- (b) If, after the Vendor has made a payment to the Purchaser pursuant to a Claim, any Purchaser Group Member receives a payment or benefit from another person (including

an insurer) in respect of the fact, matter or circumstance to which the Claim relates, the Purchaser must promptly repay to the Vendor the amount received from the Vendor or, if less, the amount of the payment or benefit received by the Purchaser.

8.6 Tax effect of Claims

- (a) If a party (**payor**) is liable to pay an amount to another party (**recipient**) in respect of a Claim and that payment is treated as income under the Tax Law such that the payment increases the income tax payable by the recipient, or the Head Company of any Consolidated Group of which the recipient is a member, (collectively the **recipient Group**) under the Tax Law, then the payment must be grossed-up by such amount as is necessary to ensure that the net amount retained by the recipient Group after deduction of Tax or payment of the increased income tax equals the amount the recipient Group would have retained had the Tax or increased income tax not been payable after taking into account any benefits or relief relating to Tax obtained or to be obtained by the recipient Group in relation to such Claim or payment.
- (b) The Liability of the Vendor for any Claim is reduced by the amount of any Tax benefit actually realised by the Purchaser (including any reduction arising from the availability to the Purchaser or any Group Member of additional Tax deductions, Tax offsets, Tax losses or other reductions which the Purchaser realises in any income year) as a result of the matter giving rise to such Liability.

8.7 Reduction of Purchase Price

Any payment received by the Purchaser from the Vendor as a result of any Claim will be in reduction and refund of the Purchase Price. Any refund or reimbursement the Purchaser makes to the Vendor in respect of any Claim will be treated as an equal increase of the Purchase Price.

8.8 Remedies for Warranty Claims and Tax Claims

The Purchaser acknowledges and agrees that its sole and exclusive remedy for any Warranty Claims and Tax Claims is damages.

8.9 Breach by Purchaser

Without limiting any other provision of this Agreement, any Liability of the Vendor in connection with any Claim will be reduced or extinguished to the extent the Liability is caused or increased by any breach by the Purchaser of any provision of this Agreement.

8.10 Independent limitations

Each qualification and limitation in this clause 8 is to be construed independently of the others and is not limited by any other qualification or limitation.

8.11 W&I Insurance Policy

Notwithstanding any other provision in this Agreement:

- (a) the Purchaser must deliver to the Vendor within 7 Business Days of the date of this Agreement a copy of the fully executed W&I Insurance Policy together with a duly signed copy of the 'no claims declaration' to be given under the W&I Insurance Policy as at the issue date of the W&I Policy;
- (b) the Purchaser warrants to the Vendor that, on and from the date of issue of the W&I Policy, the Purchaser has the benefit of the W&I Insurance Policy which provides, conditional on Completion, insurance cover in respect of Warranty Claims and Tax Claims

(upon the terms and subject to the limitations set out in the W&I Insurance Policy) up to the amount of the W&I Policy Limit;

- (c) the Purchaser warrants that the W&I Insurance Policy contains, and undertakes that the W&I Insurance Policy will at all times contain:
- (i) a waiver (on terms which have been agreed by the Vendor) by the W&I Insurers of all rights of subrogation, contribution and rights acquired by assignment against any Waiver Beneficiary in relation to any Claim, except if and to the extent that the Claim arises or is increased as a result of the fraud of that Waiver Beneficiary or the fraud of any director, officer, employee or agent of the Vendor Group Member (such person being, a **Fraudulent Person**), provided that:
 - (A) no statements made nor any information or knowledge possessed by a Fraudulent Person shall be imputed on any other person;
 - (B) if a Claim is made pursuant to this clause 8.11(c), the Claim must be on a several (and not joint and several) basis; and
 - (C) no Claim under this clause 8.11(c) may be made against any person other than the relevant Fraudulent Person who has engaged in the conduct that is the subject of the Claim;
 - (ii) an agreement from the W&I Insurers that:
 - (A) each Waiver Beneficiary is entitled to directly enforce the waiver referred to in clause 8.11(c) and may plead such waiver in bar to any subrogated action, claim in contribution or exercise of assigned rights or otherwise which may be brought against them in any jurisdiction and that in respect of such waiver the Purchaser contracts in its own right and as agent of each Waiver Beneficiary; and
 - (B) the Purchaser holds the benefit of each of the W&I Insurers' waivers referred to in clause 8.11(c) for the benefit of each Waiver Beneficiary.
- (d) the Purchaser:
- (i) agrees that it will not be entitled to make, will not make, and irrevocably waives any right it may have to make, any claim against any Vendor Group Member or any of its directors, officers, employees, partners, agents or professional advisers (**Waiver Beneficiary**) in relation to any Warranty Claim or Tax Claim by a Purchaser Group Member (or all of them);
 - (ii) irrevocably waives and releases each Waiver Beneficiary to the maximum extent permitted by Law from any and all Liabilities (including any Consequential Loss) whatsoever in respect of any loss which a Purchaser Group Member suffers or incurs in relation to a Warranty Claim or Tax Claim by a Purchaser Group Member (or all of them); and
 - (iii) agrees that its sole recourse in respect of any Warranty Claim or Tax claim is against the W&I Insurance Policy and, to the extent permitted by Law, the Waiver Beneficiary does not, and will not at any time, have any liability whatsoever (whether under this Agreement or statute, at common law or in equity) in respect of any Warranty Claim or Tax Claim,
- except if and to the extent:
- (iv) the Warranty Claim or Tax Claim is required to permit or facilitate a claim by the Purchaser under the W&I Insurance Policy against the W&I Insurers, but only on

the basis that no Waiver Beneficiary will have any liability for any such Warranty Claim or Tax Claim; or

- (v) the Warranty Claim or Tax Claim arises or is increased as a result of the fraud of a Waiver Beneficiary and then only if and to the extent that such Warranty Claim or Tax Claim relates to such Fraudulent Person's fraud and provided that paragraphs (A) to (C) inclusive 8.11(c)(i) shall apply *mutatis mutandis* to such Claim; or
 - (vi) that the Purchaser makes a claim against the Vendor for a breach of a Title and Capacity Warranty (***Title and Capacity Claim***) which (alone or in aggregate) exceeds an amount equal to the W&I Policy Limit (as may have been eroded at the time of the Title and Capacity Claim by any other amount recovered under the W&I Insurance Policy), in which case the Vendor's Liability for the Title and Capacity Claim will be limited to the amount of the Title and Capacity Claim which is in excess of the W&I Policy Limit, notwithstanding that the Purchaser may be unable to pursue or obtain any remedy under the W&I Insurance Policy, whether due to policy exceptions or exclusions, policy limits, validity, creditworthiness or otherwise;
- (e) the Purchaser agrees that clause 8.11(d) has full force and effect notwithstanding, and will not be limited, affected or otherwise prejudiced by:
- (i) whether the Purchaser takes out warranty and indemnity insurance policy in respect to this Agreement;
 - (ii) whether or not the Purchaser complies with the remainder of this clause 8.11;
 - (iii) whether the W&I Insurance Policy is valid and/or enforceable, revoked, cancelled, or modified in any manner after issuance;
 - (iv) the terms and conditions of the W&I Insurance Policy and whether or not it responds to a claim or to any liability which a Purchaser Group Member suffers or incurs; and
 - (v) whether the Purchaser is or may be unable for any reason to pursue or obtain a recovery under any insurance policy (including the W&I Insurance Policy) whether due to any policy exceptions or exclusions, the creditworthiness of any person or otherwise, all such matters being at the Purchaser's risk;
- (f) the Purchaser undertakes to the Vendor that it will not:
- (i) agree to any amendment, variation or waiver of the W&I Insurance Policy;
 - (ii) novate, or otherwise assign their rights under, the W&I Insurance Policy; or
 - (iii) vitiate the W&I Insurance Policy or do anything which causes any right under the W&I Insurance Policy not to have full force and effect,
- in each case in way which would be prejudicial to the Vendor or do anything which has a similar effect without the prior written consent of the Vendor (not to be unreasonably withheld);
- (g) the Purchaser acknowledges that:
- (i) all W&I Insurance Costs and any excess payable under the W&I Insurance Policy are solely the responsibility of, and are to be paid by, the Purchaser; and
 - (ii) the Vendor has entered into this Agreement and will complete this Agreement in reliance on the W&I Insurance Policy and this clause 8.11;

- (h) the Purchaser indemnifies the Vendor for and against all Liabilities suffered by a Waiver Beneficiary which arises out of the Purchaser's failure to comply with this clause 8.11; and
- (i) if there is any conflict or inconsistency between this clause 8.11 and any other provisions of this Agreement, this clause 8.11 prevails to the extent of the conflict or inconsistency.

9 Purchaser Warranties and Guarantor Warranties

9.1 Purchaser Warranties

The Purchaser represents and warrants to the Vendor that, as at the date of this Agreement and as at the time immediately before Completion, each of the Purchaser Warranties is true and correct.

9.2 Guarantor Warranties

The Guarantor represents and warrants to the Vendor that, as at the date of this Agreement and as at the time immediately before Completion, each of the Guarantor Warranties is true and correct.

9.3 Each Purchaser Warranty and Guarantor Warranty construed independently

Each Purchaser Warranty and Guarantor Warranty must be construed independently and is not limited by reference to another Purchaser Warranty or Guarantor Warranty.

9.4 When Purchaser Warranties and Guarantor Warranties given

Each of the Purchaser Warranties and the Guarantor Warranties:

- (a) is given as at the date of this Agreement and as at the time immediately before Completion (except where a Purchaser Warranty or a Guarantor Warranty refers only to one of those dates, that Purchaser Warranty or a Guarantor Warranty is given only at that date); and
- (b) will remain in full force and effect after the Completion Date despite Completion.

9.5 Vendor reliance

- (a) The Purchaser acknowledges and agrees that the Vendor has entered into this Agreement in reliance on the Purchaser Warranties.
- (b) The Guarantor acknowledges and agrees that the Vendor has entered into this Agreement in reliance on the Guarantor Warranties.

9.6 Indemnity

The Purchaser indemnifies the Vendor against any Liabilities or loss that the Vendor may incur to the extent caused by any breach of the Purchaser Warranties.

10 Obligations Prior to the Completion Date

10.1 Conduct of Business

Prior to the Completion Date, the Vendor must use its reasonable endeavours to ensure that the Business is conducted in the ordinary course consistent with its usual business practices and that no Group Member:

- (a) (**distributions**) declares or pays, or determines to be payable, a dividend or makes a distribution of assets to the Vendor, other than any Permitted Dividend or Permitted Preference Share Dividend;

- (b) **(share capital)** reduces its share capital, allots, issues, acquires or redeems any equity securities, or sells or grants any option, right to purchase or other form of Security Interest over any such equity securities;
- (c) **(capital commitments)** enters into any commitment or series of commitments which would involve expenditure of more than \$500,000, or defer any budgeted capital expenditure of more than \$500,000, other than in the ordinary course of the Business;
- (d) **(borrowings)** incurs any new indebtedness or obtains any new financial accommodation from any third party of more than \$500,000, or creates any encumbrance over its assets other than in the ordinary course of the Business;
- (e) **(M&A)** disposes of, encumbers or deals with any assets of the Business for consideration or value over \$1,000,000, or acquire any assets for consideration or value over \$1,000,000;
- (f) **(real property)** acquire freehold title to any real property or enters into any new lease in respect of leasehold property;
- (g) **(contracts)** enters into, materially varies, renews or terminates any Material Contract or Lease;
- (h) **(employees)**
 - (i) enters into or modifies the terms of any agreement with any Employee or independent contractor with an annual payment of more than \$200,000, other than:
 - (A) to replace Employees or contractors who have ceased, or have given or been given notice to cease, employment or engagement with any Group Member; or
 - (B) in the ordinary course of business and in accordance with current personnel practices or as required by Law, any industrial instrument or existing employment agreement; or
 - (ii) terminate or encourage the resignation of any Employee with an annual remuneration of more than \$200,000, other than for good cause;
- (i) **(constituent documents)** amends or replaces its constitution or other constituent document;
- (j) **(accounting policies)** materially changes any accounting policies or practices, unless such change is required to comply with a change in the Accounting Standards or the practice or policy of a Governmental Agency;
- (k) **(litigation)** commences or settles any litigation, arbitration or other legal proceedings for more than \$100,000, other than for the collection of any amount owing to any Group Member;
- (l) **(winding up)** passes a resolution for the winding up or dissolution of any Group Member, other than in the ordinary course of the Business;
- (m) **(redundancies)** implements any redundancies;
- (n) **(insurance)** allow to lapse any current insurance of the assets or the business of the Group;
- (o) **(non arm's length terms)** enters into any contract or arrangement which is not on arms' length terms;

- (p) (**working capital**) makes any unfavourable changes to its management of working capital compared to past practice in the preceding 12 months of the date of this Agreement; or
- (q) enters into any agreement or arrangement to do any of the things in clauses 10.1(a) to 10.1(l).

10.2 Permitted conduct

- (a) Clause 10.1 does not apply to any action, omission or matter:
 - (i) Fairly Disclosed in the Disclosure Material or required or expressly permitted by this Agreement;
 - (ii) in respect of which the Purchaser has provided its prior written consent;
 - (iii) to progress or settle the Insurance Claim consistently with what has been Fairly Disclosed to the Purchaser in the Disclosure Material;
 - (iv) to terminate the Market Street Lease consistently with what has been Fairly Disclosed to the Purchaser in the Disclosure Material or payment of the Market Street Exit Payment;
 - (v) in connection with the payment of the earn out in connection with the Little Village Transaction consistently with what has been Fairly Disclosed in the Disclosure Material;
 - (vi) in connection with the variation, supplement, renewal, renegotiation of or entry into any insurance policy in respect of the assets or the business of the Group;
 - (vii) in connection with the winding up or deregistration of Little Learning School Chatswood North Pty Ltd (ACN 159 849 644) or Project Village Ridley Pty Ltd (ACN 620 199 037);
 - (viii) that is required to reasonably and prudently prevent or respond to an emergency or a disaster or manage any urgent or imminent legal or reputational risk to the Group (provided that the Vendor gives the Purchaser notice of the event and proposed action prior to taking the action, where possible, or as soon as reasonably practicable after taking the action if prior notice is not practicable);
 - (ix) that the Vendor, acting reasonably, determines is prudent and proportionate having regard to COVID-19 and its impact, or potential impact, on the Business and/or the Employees (provided that the Vendor gives the Purchaser notice of the proposed action prior to taking the action, where possible, or as soon as reasonably practicable after taking the action if prior notice is not practicable); or
 - (x) that is required or requested by any Governmental Agency or required by any applicable law (including in connection with any operational requirements or restrictions related to the COVID-19 pandemic or its impacts) or to maintain any Approval.

10.3 Purchaser not to unreasonably withhold consent

If the Vendor request that the Purchaser consent to a proposed action, omission or matter referenced in clause 10.1, the Purchaser must not unreasonably withhold, condition or delay such consent.

10.4 Business access and information

Prior to the Completion Date, to the extent permitted by law, the Vendor must procure that the Purchaser is, on reasonable notice from the Purchaser, given reasonable access (during

business hours of the Business) to the Business Records, premises (including leased sites), data, records, systems and Key Individuals. The Purchaser may only exercise its right of access under this clause 11.4 to the extent the access will not, in the reasonable opinion of the Vendor:

- (a) unreasonably interfere with the conduct of the Business or the activities and operations of the Group and its employees;
- (b) breach any obligations (including obligations of confidentiality) that the Vendor or the Group owes to any third party or under any law or regulation; or
- (c) compromise or result in a risk of damage to the protection of legal professional privilege of the Group,

and the Purchaser agrees to comply with the Vendor's reasonable requirements and directions in relation to the access. Any exercise of the right of access under this clause 10.4 by the Purchaser or any of its Representatives is at the risk of the Purchaser.

10.5 Integration planning

- (a) Between entry into this Agreement and Completion, the Group will provide such assistance, access to premises and personnel as the Purchaser reasonably requests for the purposes of its integration planning.
- (b) Without limiting clause 10.5(a), between entry into this Agreement and Completion, the Group must use reasonable endeavours to cause its independent auditors and other Representatives to cooperate with and assist the Purchaser and its Representatives to:
 - (i) (if necessary) modify the financial statements of the Group as required for the Purchaser to comply on a timely basis with its obligations to file financial statements with respect to the Group with the Securities and Exchange Commission (the "**SEC**") pursuant to Item 9.01 of Form 8-K, in each case meeting the requirements of Regulation S-X promulgated by the SEC and all other applicable accounting rules and regulations of the SEC promulgated thereunder (including financial statements required by Item 9.01(a)(1) of Form 8-K and pro forma financial information required by Item 9.01(b)(1) of Form 8-K), or with respect to any future registration statement or private offering that may be filed or conducted by Purchaser or its affiliates where inclusion of such financial statements is required; and
 - (ii) include or incorporate any of the Group's audited financial statements and the auditors' report on them required to be filed, incorporated by reference or included in any disclosure document in connection with a public or private offering of securities of Purchaser or its Related Bodies Corporate or as may be required by Item 3-05 of Regulation S-X (7 C.F.R. Part 210) (US).
- (c) Prior to the Completion Date, the Vendor must procure that each relevant Group Member undertakes, at the cost of the Purchaser and in coordination with the finance team and advisors of the Purchaser, such preparatory work as is reasonably required to convert the Group's financial statements and all necessary supporting account analyses, including but not limited to business combinations, lease accounting and tax accounting, as of the most recent calendar quarter, to US generally accepted accounting principles, so that the Purchaser can meet its United States accounting filing requirements with respect to the Group on a timely basis following Completion, including audit requirements for the opening balance sheet and 15 day calendar close for quarterly financial reporting (together with work undertaken pursuant to clause 10.5(b), being the **Preparatory Accounting Work**).

- (d) The Parties agree that if the Preparatory Accounting Work is not completed by 30 June 2022, the Completion Date will not occur prior to 1 August 2022.
- (e) The Purchaser agrees that no employee, director or officer of the Vendor Group or Group who undertakes Preparatory Accounting Work pursuant to clauses 10.5(b) and 10.5(c) (**Relevant Participant**) will be liable for, and the Purchaser agrees that it will not be entitled to make, will not make, and irrevocably waives any right it may have to make, any claim against any Relevant Participant, any action taken in connection with such Preparatory Accounting Work.

10.6 Change of control consents

- (a) The Vendor and the Purchaser must (and the Vendor must procure that each Group Member) use reasonable endeavours as soon as reasonably practical after the date of this Agreement to obtain, prior to Completion any Third Party Consents that are required under any Material Contract or Lease as a result of the change of Control of the Group on Completion.
- (b) The Purchaser must not, without the prior written consent of the Vendor (not to be unreasonably withheld), approach or enter into any negotiations with a counterparty to a Material Contract or Lease.
- (c) The Vendor must:
 - (i) consult with the Purchaser regarding the written communications to counterparties to the Material Contracts and Leases, which must be sent in a form acceptable to the Purchaser (acting reasonably and without undue delay); and
 - (ii) upon reasonable request from the Purchaser, keep the Purchaser informed of progress in obtaining the consents (including providing copies of information reasonably requested by the Purchaser).

10.7 Management Equity Plan

The Vendor must:

- (a) procure that the Management Equity Plan is terminated on or prior to Completion such that no party will have any further rights or obligations under the Management Equity Plan;
- (b) cause the Preference Shares to be bought back and cancelled no later than 5 Business Days prior to Completion, such that no Preference Shares are on issue as at Completion; and
- (c) deliver an updated capitalisation table for the Company to the Purchaser no later than 5 Business Days prior to the Completion Date.

10.8 Domain names

The Vendor must use reasonable endeavours to procure that the beehivechildcare.com.au, brightsteps.com.au, littlevillage.net.au, littletreehouse.com.au and littlevillage.net.au domains are transferred into, or a replacement domain name registration is obtained in, the name of a Group Member prior to the Completion Date.

10.9 Bank Guarantees

- (a) The parties must, at their respective own cost, take all reasonable steps (including in the case of the Purchaser, the steps set out in clause 10.9(d)), before and, where applicable,

after Completion to ensure that each Bank Guarantee is released and returned (where applicable) to the satisfaction of the Vendor with effect on and from Completion or as soon as reasonably possible thereafter (and in any event by the expiry date of the relevant Bank Guarantee), such that the relevant third party issuer or guarantee provider and each Vendor Group Member is released from any actual, contingent or accrued Liabilities in respect of each Bank Guarantee.

- (b) Without limiting clause 10.9(a), in relation to any Bank Guarantees which have not been released and returned on Completion, the Purchaser must ensure that, effective from Completion, one or more financial institutions acceptable to the Vendor, acting reasonably, have issued back-to-back guarantees in an aggregate amount not less than the maximum amount that may become payable by any Vendor Group Member or third party issuer or guarantee provider under or in relation to such Bank Guarantees, such that each Vendor Group Member is released from any actual, contingent or accrued Liabilities in respect of each Bank Guarantee.
- (c) The Purchaser indemnifies the Vendor against and must pay the Vendor on demand an amount equal to:
 - (i) all fees, premiums, margins, costs and expenses paid or payable by any Vendor Group Member to any third party issuer or guarantee provider of any Bank Guarantees to the extent such fees, premiums, margins, costs and expenses relate to any Bank Guarantee remaining in place after Completion; and
 - (ii) any Liability that any Vendor Group Member incurs or is liable for under or in relation to a Bank Guarantee after Completion.
- (d) For the purposes of clause 10.9(a), 'reasonable steps' includes the Purchaser or (at the request of the relevant issuer or guarantee provider) another Purchaser Group Member providing:
 - (i) a replacement guarantee or security on terms the same or substantially the same as the terms of a Bank Guarantee; and
 - (ii) if requested by the relevant issuer or guarantee provider, evidence of the Purchaser's or the other Purchaser Group Member's financial standing and solvency and of any other matters reasonably requested to secure the release of a Bank Guarantee.
- (e) The Vendor must ensure that the Company provides reasonable assistance and information required by the Purchaser to assist the Purchaser to perform its obligations under this clause 10.8.

10.10 Repayment of indebtedness

On or before Completion, the Vendor must procure that

- (a) all indebtedness owed from any Vendor Group Member (other than a Group Member) to a Group Member, including any inter-company working capital financing and intercompany Tax receivables and payables, is repaid in full together with any interest accrued up to Completion; and
- (b) all indebtedness (other than trading debts and receivables in the ordinary course) owed from any Group Member to any Vendor Group Member (including any inter-company working capital financing and intercompany Tax receivables and payables) is repaid in full together with any interest accrued up to Completion.

10.11 Existing Shareholders' Agreement

The Vendor agrees to cause all steps required to be taken to ensure that Shareholders' Agreement terminates on or before Completion, so that:

- (a) no party will have any rights or obligations under the Shareholders' Agreement in relation to any matter, act or omission undertaken at any time arising out of or in connection with the Shareholders' Agreement; and
- (b) each party to the Shareholders' Agreement releases each other party from all actions, demands, claims and proceedings under, or in connection with, the Shareholders' Agreement,

provided that the covenants that by their terms survive termination of the Shareholders' Agreement will survive in accordance with their respective terms. The Company agrees to the termination of the Shareholders' Agreement in accordance with this clause 10.10.

10.12 D&O insurance

- (a) The Vendor will, prior to the Completion, enter into arrangements to secure (at the Vendor's cost) run-off insurance cover in respect of the directors and officers of each Group Member (**Run-Off Beneficiaries**) for each such director and officer for up to 7 years after that director or officer has resigned from the Group Member (**Run-Off Insurance**).
- (b) The Purchaser must ensure that each relevant Group Member maintains the Run Off Insurance after Completion and undertakes to the Vendor and each Run-Off Beneficiary that it will not, and will procure that each Group Member does not:
 - (i) terminate, waive, amend or otherwise vary or cancel the Run-Off Insurance at any time after Completion without the prior written consent of all relevant Run-Off Beneficiaries; or
 - (ii) do anything that (other than allowing a Run-Off Insurance to expire in accordance with its terms), or fail to do anything where such failure, would entitle the insurer of the Run-Off Insurance to cancel, qualify or avoid cover or to deny or reduce their liability for any covered Claim.
- (c) The Purchaser agrees from Completion, to provide, and to procure that each Group Member provides, all information reasonably required of them to give effect to each Run-Off Insurance, including the provision of reasonable assistance and information in order to make a claim under the Run-Off Insurance.
- (d) From Completion, the Purchaser undertakes to the Vendor and each current or former director or officer of a Group Member, to procure that each Group Member does not, terminate, waive, amend or otherwise vary or cancel, any covenant or indemnity in favour of a current or former director or officer of a Group Member (in their capacity as such), which has been Fairly Disclosed to the Purchaser before entry into this Agreement, except as required by Law or with the prior written consent of each affected person.

11 Post Completion

11.1 Retain copies of books and records

The Vendor may retain copies of all books of accounts, books, records, contracts and commitments of the Group to the extent required to comply with its legal or regulatory obligations (including those relating to Tax).

11.2 Access to books and records

- (a) Notwithstanding clause 11.1, for a period of 7 years after Completion (or for any longer period required by law) the Purchaser must allow the Vendor reasonable access after Completion to relevant books of accounts, books, records, contracts and commitments of the Group relating to periods prior to Completion, to the extent necessary to comply with any legal or regulatory obligations (including those relating to Tax) or to address any dispute with a third party or to the extent required in connection with any inquiries, including potential inquiries, of a Governmental Agency. The Purchaser (acting reasonably) is not obliged to take any action or procure a Group Member to take any action which would result in a waiver of legal professional privilege. The Vendor and its Representatives may only retain copies of such material for so long as they are required for the purpose for which it was requested.

11.3 Control of taxation returns, etc

- (a) The Purchaser will have the sole conduct and control of:
- (i) the preparation and filing of all Income Tax, or other Tax, returns, forms or statements of the Group for Income Years, or other periods, ending before Completion (**Pre-Completion Returns**);
 - (ii) the preparation and filing of all Income Tax, or other Tax, returns, forms or statements of the Group for Income Years, or other periods, commencing before but ending on or after Completion (**Straddle Returns**), to the extent such Straddle Returns relate to income, profits or gains derived, or transactions occurring, before Completion; and
 - (iii) the preparation and filing of all other Tax returns, forms or statements of the Group to the extent they relate to any act, matter or transaction occurring, or any period, before Completion (**Other Relevant Returns**).
- (b) The Vendor must procure that the Vendor Group furnishes all information, executes all documents, gives or makes all notices, consents, claims, elections, selections and declarations, makes available (and permits the Purchaser to take copies of) all books and records of the Vendor Group, gives access to all relevant employees, directors and officers of the Vendor Group, and otherwise provides all such assistance as the Purchaser may reasonably require in relation to the preparation and filing of Pre-Completion Returns, Straddle Returns and Other Relevant Returns.
- (c) In respect of the Pre-Completion Returns, the parties must procure that, to the extent applicable, the Group make an Accelerated Depreciation Measure Opt Out Choice or a Temporary Full Expensing Measure Opt Out Choice in respect of the relevant assets (as applicable).
- (d) The Purchaser must provide a draft of each Pre-Completion Return, Straddle Return or Other Relevant Return to be lodged after entry into this Agreement, together with supporting work papers, to the Vendor:
- (i) in the case of a Pre-Completion Return, Straddle Return or Other Relevant Return that relates to Tax other than Income Tax, no later than 15 Business Days before the due date for lodgement; and
 - (ii) in the case of a Pre-Completion Return, Straddle Return or Other Relevant Return relating to Income Tax, no later than 20 Business Days before the due date for lodgement.

- (e) The Purchaser must procure that the Purchaser Group does not, without the prior consent of the Vendor (such consent not to be unreasonably withheld or delayed):
- (i) file any Pre-Completion Return, Straddle Return or Other Relevant Return with any Taxation Authority;
 - (ii) amend, or request or permit the amendment of, or make or lodge any objection or appeal in relation to, any Pre-Completion Return, Straddle Return or Other Relevant Return;
 - (iii) apply to any Taxation Authority for any binding or non-binding opinion, ruling or other determination in relation to any act, matter or transaction covered by a Pre-Completion Return, Straddle Return or Other Relevant Return, or to any act, matter or transaction occurring before Completion; or
 - (iv) furnish to any Taxation Authority any information (in writing or otherwise) in relation to any Pre-Completion Return, Straddle Return or Other Relevant Return, or to any act, matter or transaction occurring before Completion, including where the provision of the information is required by law (and the Vendor agrees that where the Purchaser demonstrates that the provision of information is required by law, the Vendor will act reasonably in giving consent to the form and content of the disclosure of such information to the Taxation Authority and cannot unreasonably withhold their consent in a manner which would result in the Purchaser Group contravening its obligations to disclose such information as required by law).
- (f) If any Taxation Authority undertakes an Audit of the Purchaser Group, or issues an Assessment to the Purchaser Group, which relates to any Pre-Completion Return, Straddle Return or Other Relevant Return, or to any act, matter or transaction occurring before Completion with respect to which the Vendor may be liable (**Tax Items**):
- (i) the Purchaser must as soon as reasonably practicable (and in any event, within 15 Business Days) give the Vendor written notice of the Audit or Assessment (together with copies of all documents received from the Taxation Authority) and provide full written details of the Audit or Assessment to the extent it relates to Tax Items;
 - (ii) the Vendor, at their own cost and expense, will have the sole conduct and control of all action taken by the Purchaser Group in respect of the Audit or Assessment to the extent it relates to any Tax Items;
 - (iii) the Purchaser must not accept, and will procure that each other Purchaser Group Member does not, accept or concede any position in connection with any Tax Items with the Taxation Authority without the Vendor's prior written consent (not to be unreasonably withheld or delayed) and, in the event that, notwithstanding this clause 11.3(f)(iii), a Purchaser Group Member accepts or concedes any position with the Taxation Authority without the Vendor's prior written consent (unless unreasonably withheld or delayed), the Vendor will not have any Liability in connection with the relevant Tax Items;
 - (iv) the Purchaser must procure that the Purchaser Group furnishes all assistance that the Vendor may reasonably require in relation to action taken in respect of the Audit or Assessment to the extent it relates to Tax Items; and
 - (v) the Purchaser must procure that the Vendor is authorised to take such action on behalf of and in the name of any Group Member as the Vendor may reasonably require in respect of the Audit or Assessment to the extent it relates to any Tax

Items, including, responding (in writing or otherwise) to any audit enquiry from any Taxation Authority, attending and conducting interviews, meetings, discussions and negotiations with any Taxation Authority, negotiating and concluding compromises, agreements and settlements with any Taxation Authority, lodging requests for rulings, opinions or determinations with any Taxation Authority and lodging or instituting objections, applications, appeals and other litigation with any Taxation Authority, tribunal or court.

- (g) The Purchaser must procure that each Group Member uses to the full extent possible any deduction, rebate, credit, allowance, rollover, refund or other relief of any kind relating to a period or part period ending before Completion in respect of Tax that is reasonably available to reduce, limit, defer or otherwise mitigate a Liability to Tax which otherwise would or may give rise to a Tax Claim. In this clause 11.3(g) in relation to Income Tax, relief includes, without limitation, relief available from use of current or prior year losses, or loss transfers from Related Entities.
- (h) The Vendor must reimburse the Purchaser for its reasonable out-of-pocket expenses incurred in providing assistance to the Vendor under this clause 11.3.

Nothing in this clause 11.3 will be taken to limit the Purchaser's obligations under other provisions of this Agreement.

11.4 Tax relief

The Purchaser must pay to the Vendor an amount equal to any credit, refund, rebate, reimbursement or other form of relief allowed by or received from a Taxation Authority in respect of:

- (a) any Tax paid by any Group Member on or before Completion or provided for in the Completion Accounts except to the extent that the credit, refund, rebate, reimbursement or other form of relief is already provided for in the Completion Accounts; or
- (b) any Tax paid by any Group Member after Completion to the extent the Purchaser has received an amount under clause 7.8 or under a Tax Warranty for such Tax,

less the amount of any Tax to which the Purchaser or a Group Member is subject in connection with the relevant Tax benefit.

Any amount paid by the Purchaser to the Vendor under this clause 11.4 will be in addition to and an increase in the Purchase Price.

12 Non solicitation

From the Completion Date until the date that is two years after the Completion Date, the Vendor must not (and must procure that its Restrained Parties do not) without the prior written consent of the Purchaser (which consent must not be unreasonably withheld), directly or indirectly, hire or solicit for employment any Key Individuals, provided that nothing in this clause 12 prohibits the Vendor or any of its Restrained Parties from engaging in general solicitations to the public or general advertising not targeted at the Key Individuals; or hiring or soliciting any employee whose employment has been terminated by a Group Member following Completion.

13 Confidentiality

13.1 Confidentiality obligations

Subject to clause 13.2, each party must keep confidential, and require that each of its Representatives to whom any term of this Agreement is disclosed keep confidential, the terms of

this Agreement and any agreement or document entered into in connection with, or contemplated by, this Agreement.

13.2 Exceptions

A party may make any disclosures in relation to this Agreement or other agreement or document referred to in clause 13.1 to:

- (a) comply with any applicable law (except to the extent it can be excluded or limited by contract or by a confidentiality obligation) or requirement or written request of any Governmental Agency, provided the information is identified as, and should be treated as, confidential to the extent permitted by law;
- (b) any of its Representatives, to whom it is necessary to disclose the information, provided the information is identified as being confidential and those persons are bound or required to keep the information disclosed confidential; or
- (c) to comply with the terms of this Agreement or such other agreement or document, or to pursue any Claim including in any court proceedings.

13.3 Public announcements

- (a) Except as required by law or the rules of any securities exchange or the rules and regulations of the Securities and Exchange Commission, all press releases and other public announcements relating in any way to the Transaction must be on terms agreed by the Vendor and the Purchaser acting reasonably.
- (b) Where a press release or other public announcement is required to be made by law or the rules of any securities exchange or the rules and regulations of the Securities and Exchange Commission, the party required to make such release or other announcement must:
 - (i) notify the other party to this Agreement in writing as soon as reasonably practicable upon becoming aware of the need to make such release or announcement; and
 - (ii) where practicable, provide to the other party a draft of the proposed disclosure, to the extent that the announcement (or part thereof) relates to this Agreement, prior to its release.
- (c) Notwithstanding anything else in this clause 13, any Purchaser Group Member (or their officers or employees) may make disclosures relating to the Transaction on earnings or investor calls, provided that the only material information relating to the Transaction disclosed is information that is already in the public domain (other than by reason of a breach of this clause 13) or otherwise approved by the Vendor.

14 Termination

14.1 Termination for a failure to Complete

- (a) If a party does not Complete on the day and time scheduled for Completion, other than as a result of default by the other party, the non-defaulting party may give the defaulting party notice requiring it to satisfy its obligations required for Completion to occur within 10 Business Days of receipt of the notice and declaring time to be of the essence.
- (b) If the defaulting party does not Complete within the period specified in clause 14.1(a), the non-defaulting party may choose either to seek specific performance or terminate this Agreement (immediately by further written notice to the defaulting party). In either case, the non-defaulting party may seek damages for the default.

14.2 Termination for insolvency

- (a) The Purchaser may terminate this Agreement at any time before Completion by notice in writing to the Vendor if:
- (i) an order is made or an effective resolution is passed for the winding up or dissolution without winding up (otherwise than for the purposes of reconstruction or amalgamation) of the Vendor or any Group Member (other than Little Learning School Chatswood North Pty Ltd and Project Village Ridley Pty Ltd);
 - (ii) a receiver, receiver and manager, judicial manager, liquidator, administrator or like official is appointed over the whole or a substantial part of the undertaking or property of the Vendor or any Group Member; or
 - (iii) a holder of a Security Interest takes possession of the whole or any substantial part of the undertaking and property of the Vendor or any Group Member.
- (b) The Vendor may terminate this Agreement at any time before Completion by notice in writing to the Purchaser if:
- (i) an order is made or an effective resolution is passed for the winding up or dissolution without winding up (otherwise than for the purposes of reconstruction or amalgamation) of the Purchaser or the Guarantor;
 - (ii) a receiver, receiver and manager, judicial manager, liquidator, administrator or like official is appointed over the whole or a substantial part of the undertaking or property of the Purchaser or the Guarantor; or
 - (iii) a holder of a Security Interest takes possession of the whole or any substantial part of the undertaking and property of the Purchaser or the Guarantor.

14.3 Effect of termination

- (a) If this Agreement is terminated under clause 2.5, 14.1 or 14.2, then, in addition to any other rights, powers or remedies provided under this Agreement or by law:
- (i) each party is discharged from any further obligation under this Agreement; and
 - (ii) each party retains the rights it has against any other party in connection with any breach or Claim that has arisen prior to termination.
- (b) This clause 14.2 and each of the following clauses survives termination of this Agreement under clause 2.5, 14.1 or 14.2: Clauses 1 (*Definitions and Interpretation*), 8 (*Limitations on Liability*), 13 (*Confidentiality*), 14 (*Termination*), 15 (*No Other Liability*), 16 (*GST*), 18.1 (*Costs and Duty*), 18.10 (*Notices*), 18.11 (*Governing Law and Jurisdiction*) and 18.13 (*Counterparts*).

14.4 No other right to terminate or rescind

No party may terminate or rescind this Agreement except as permitted under clause 2.5, 14.1, or 14.2.

15 No Other Liability

The parties agree that:

- (a) no Representative of a party will owe or have any Liability to the other party or any of its Related Bodies Corporate in connection with any act, matter or thing which occurred before, at or after Completion, in connection with this Agreement or any of the transactions contemplated by this Agreement, other than an act of fraud by that person; and

- (b) each Representative of a party is entitled to the benefit of, and may directly enforce, this clause 15 and the relevant party holds such benefit at the direction of those persons and is entitled to enforce this clause 15 on behalf of or for the benefit of any of those persons.

16 GST

16.1 Amounts are exclusive of GST

Unless otherwise expressly stated, all amounts referred to in this Agreement are exclusive of GST.

16.2 Recovery of GST

If GST is payable, or notionally payable, on a supply made under or in connection with this Agreement, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply (the **GST Amount**). Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time that the other consideration for the supply is provided. If a tax invoice is not received before the consideration for the supply is provided, the GST Amount is payable upon receipt of the tax invoice. This clause does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.

16.3 Liability net of GST

Where any indemnity, reimbursement or similar payment under this Agreement is based on any cost, expense or other Liability, it will be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other Liability.

16.4 Adjustment events

If an adjustment event occurs in relation to a supply made under or in connection with this Agreement, the GST Amount will be recalculated to reflect that adjustment and, subject to the issue of an adjustment note for that adjustment, an appropriate payment will be made between the parties.

16.5 Survival

This clause will not merge upon completion and will continue to apply after the expiration or termination of this Agreement.

16.6 Definitions

Unless the context requires otherwise, words and phrases used in this clause that have a specific meaning in the GST Law will have the same meaning in this clause.

17 Guarantee

17.1 Guarantee

In consideration of the Vendor entering into this Agreement at the request of the Guarantor, the Guarantor:

- (a) unconditionally and irrevocably guarantees to the Vendor on demand the due and punctual performance by the Purchaser of all its obligations under this Agreement;
- (b) separately indemnifies the Vendor against:
 - (i) any Liability that may be incurred or sustained by the Vendor in connection with any default or delay by the Purchaser in the due and punctual performance of any of its obligations under this Agreement, and any Liability the Vendor is entitled to

recover pursuant to this Agreement which is not recoverable from the Purchaser; and

- (ii) any amount that the Purchaser would have been liable to pay to the Vendor, or which would have been recoverable by the Vendor, but for the Purchaser's Liquidation; and
- (c) on demand from time to time, will pay an amount equal to any Liability and amount which is then due and payable by the Purchaser to the Vendor under or in connection with this Agreement, or which would have been due and payable by the Purchaser to the Vendor under or in connection with this Agreement, including pursuant to clause 17.1(b)(ii).

For the purposes of this clause 17, Liabilities expressly includes amounts that the Purchaser would have been liable to pay.

17.2 Unconditional nature of obligation

Neither this Agreement nor the obligations of the Guarantor under it will be affected by anything which but for this provision might operate to release, prejudicially affect or discharge the Agreement or the obligations of the Guarantor or in any way relieve the Guarantor from any obligation. This includes:

- (a) the grant to any person of any time, waiver or other indulgence, or the discharge or release of any person;
- (b) any transaction or arrangement between the Vendor and any person;
- (c) the Vendor becoming party to or bound by any compromise, moratorium, assignment of property, scheme of arrangement, deed of company arrangement, composition of debts or scheme of reconstruction by or relating to any person;
- (d) the Vendor exercising or delaying or refraining from exercising or enforcing any document or agreement or any right, power or remedy conferred on it by law or by any document or agreement;
- (e) all or any part of any document or agreement held by the Vendor at any time or of any right, obligation, power or remedy changing, ceasing or being transferred (this includes amendment, variation, novation, replacement, rescission, invalidity, extinguishment, repudiation, avoidance, unenforceability, frustration, failure, expiry, termination, loss, release, discharge, abandonment or assignment);
- (f) the taking or perfection of any document or agreement or failure to take or perfect any document or agreement;
- (g) the failure by any person or the Vendor to notify the Guarantor of any default by any person under any document or agreement or other circumstance;
- (h) the Vendor obtaining a judgment against any person for the payment of any Liabilities owing by the Purchaser to the Vendor under or in connection with this Agreement;
- (i) any change in any circumstance (including in the members or constitution of any person);
- (j) any increase in the Liabilities owing by the Purchaser to the Vendor under or in connection with this Agreement for any reason (including as a result of anything referred to above);
- (k) any legal limitation, disability, Liquidation, incapacity or thing affecting any person or the operation of any law, including any law relating to Liquidation, fiduciary or other duties or obligations or the protection of creditors;

- (l) any release, discharge, termination, rescission, repudiation, extinguishment, abandonment or disclaimer;
- (m) any failure by any person to execute, or to execute properly, an agreement or document or to comply with some requirement;
or
- (n) an agreement, document, obligation or transaction being or becoming illegal, invalid, void, voidable or unenforceable in any respect,

whether with or without the consent or knowledge of the Guarantor.

None of the paragraphs in this clause 17.2 limits the generality of any other.

17.3 Principal and independent obligation

This clause 17 is a principal and independent obligation. It is not ancillary or collateral to any other document, agreement, right or obligation and extends to cover this Agreement as amended, varied or replaced, whether with or without the consent of the Guarantor.

17.4 Continuing guarantee and indemnity

This clause:

- (a) is a continuing guarantee and indemnity;
- (b) will not be taken to be wholly or partially discharged by the performance by the Purchaser of any of its obligations under this Agreement or by any settlement of account or other matter or thing; and
- (c) despite Completion, remains in full force and effect for so long as the Purchaser has any Liability or obligation to the Vendor under this Agreement and until all of those Liabilities or obligations have been fully discharged.

18 General

18.1 Costs and Duty

- (a) Each party must bear its own costs arising out of the negotiation, preparation and execution of this Agreement.
- (b) The Purchaser must pay all duty (including stamp duty and any fines, penalties and interest) that may be payable on or in connection with this Agreement, any transaction evidenced by this Agreement and any instrument or transaction entered into under this Agreement.

18.2 Foreign resident capital gains tax withholding tax

- (a) For the purposes of subsection 14-225(2) of Schedule 1 the TAA, by entering into this document the Vendor declares that the Shares are not indirect Australian real property interests for the six month period commencing on the date of this Agreement.
- (b) If Completion occurs later than the date that is six months after the date of this Agreement, the Vendor must deliver to the Purchaser, on or before Completion, a further declaration that the Shares are not indirect Australian real property interests for the six month period commencing on the date of such declaration.
- (c) The Purchaser acknowledges and agrees that:
 - (i) clause 18.2(a) (or any further declaration under clause 18.2(b)) constitutes a declaration for the purposes of sections 14-210(3) and 14-225(2) of Schedule 1 to the TAA, given by the Vendor to the Purchaser;

- (ii) the Purchaser does not know the declaration in clause 18.2(a) (or any further declaration under clause 18.2(b)) to be false in respect of the Vendor; and
- (iii) as a result of the matters referred to in clauses 18.2(c)(i) and 18.2(c)(ii), the Purchaser will not (despite any provision to the contrary in this Agreement) withhold a CGT Withholding Amount from any payment to be made to the Vendor in connection with this Agreement.

18.3 Third Party Benefit

- (a) Subject to clause 18.3(b), no person that is not a party to this agreement has, or may enforce, any rights or benefits under this Agreement.
- (b) To the extent that a representation, warranty, indemnity, release, undertaking or acknowledgment given by a party in this Agreement is given to or for the benefit of any Representative of another party (such other party being referred to as the **Recipient**) or any director, officer, employee or agent of the Recipient or its Related Entities (each referred to as a **Third Party Beneficiary**), the benefit of that representation, warranty, indemnity, release, undertaking or acknowledgment is held by the Recipient for the benefit of, and is enforceable by, each such Third Party Beneficiary, notwithstanding that any such Third Party Beneficiary is not a party to this Agreement.

18.4 No Merger

The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any such transaction.

18.5 Assignment

No party may assign, charge, encumber or otherwise deal with any rights and obligations under this Agreement, or attempt or purport to do so, without the prior written consent of each other party except, in the case of the Purchaser, to any financier of a Purchaser Group Member from time to time in connection with any financing provided in connection with the transactions that are the subject of this Agreement.

18.6 Further Assurances

Each party must do anything (including executing agreements and documents) necessary to give full effect to this Agreement and the transactions contemplated by it.

18.7 Entire Agreement

This Agreement contains the entire agreement between the parties with respect to its subject matter. It sets out the only conduct, representations, warranties, covenants, conditions, agreements or understandings (collectively **Conduct**) relied on by the parties and supersedes all earlier Conduct by or between the parties in connection with its subject matter. None of the parties have relied on or is relying on any other Conduct in entering into this Agreement and completing the transactions contemplated by it.

18.8 No Waiver

No failure to exercise nor any delay in exercising any right, power or remedy under this Agreement operates as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

18.9 Severability of Provisions

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

18.10 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Agreement:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender (or in the case of email, set out the full name and position or title of the sender or person duly authorised by the sender);
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the address or email address below or the address or email address last notified by the intended recipient to the sender after the date of this Agreement:

- (i) to the Vendor

Address: Level 28 Aurora Place, 88 Phillip Steet,
Sydney NSW 2000

Email: spayne@BainCapital.com /
ewinkler@BainCapital.com /
bgombert@baincapital.com /
M.Murphy@baincapital.com

Attention: Samuel Payne / Eli Winkler / Bart Gombert /
Michael Murphy

With a copy (such copy not constituting notice) to:

Email: noah.obradovic@allens.com.au

Attention: Noah Obradovic

- (ii) to the Purchaser:

Address: 2 Wells Ave, Newton, MA 02459, United
States of America

Email: JCASAGRANDE@brighthorizons.com

Attention: John Casagrande

With a copy (such copy not constituting notice) to:

Email: rebecca.maslen-stannage@hsf.com,
mia.harrison-kelf@hsf.com and
Samuel.Karshis@brighthorizons.com

- (c) will be conclusively taken to be duly given or made:

- (i) in the case of delivery in person, when delivered;
- (ii) in the case of delivery by express post, to an address in the same country, 2 Business Days after the date of posting;
- (iii) in the case of delivery by any other method of post, 6 Business Days after the date of posting or 10 Business Days after the date of posting (if posted to an address in another country); and
- (iv) in the case of email, at the earliest of:
 - (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (B) the time that the intended recipient confirms receipt of the email by reply email; and
 - (C) three hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, within that three hour period, an automated message that the email has not been delivered,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day, or at a time that is later than 5 p.m., in the place to which the Notice is sent, it will be conclusively taken to have been duly given or made at the start of the business on the next business day in that place.

18.11 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this agreement expressly states otherwise.

18.12 Governing Law and Jurisdiction

This Agreement and, to the extent permitted by law, all related matters including non-contractual matters is governed exclusively by the laws of New South Wales, Australia. In relation to such matters each party irrevocably accepts the non-exclusive jurisdiction of courts with jurisdiction there and waives any right to object to the venue on any ground.

18.13 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts will be taken to constitute one instrument.

Schedule 1**Vendor Warranties****Part A – Title & Capacity Warranties****Incorporation and Existence**

- 1 The Vendor is duly incorporated and validly exists under the law of its place of incorporation.
- 2 The Vendor has full corporate power and authority to own the Shares.
- 3 The Vendor is not insolvent and no receiver has been appointed over any part of the Vendor's assets and no such appointment has been threatened in writing.
- 4 The Vendor is not in liquidation and no proceedings have been brought or threatened in writing for the purpose of winding up the Vendor.
- 5 So far as the Vendor is aware, there are no facts, matters or circumstances which give any person the right to apply to liquidate or wind up the Vendor.
- 6 No administrator has been appointed to the Vendor nor has any deed of company arrangement been executed or proposed in respect of the Vendor.
- 7 The Vendor has not entered into any written arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them.
- 8 The Vendor is not (or has taken to be under applicable legislation) unable to pay its debts, other than a debt or claim the subject of a good faith dispute, and has not stopped or suspended, or threatened to stop or suspend, the payment of all or a class of its debts.

Authority

- 9 The execution and delivery of this Agreement has been properly authorised by all necessary corporate action of the Vendor.
- 10 The Vendor has full corporate power and lawful authority to execute and deliver this Agreement and to consummate and perform or cause to be performed its obligations under this Agreement and each transaction contemplated by this Agreement to be performed by the Vendor.
- 11 This Agreement constitutes a legal, valid and binding obligation of the Vendor enforceable in accordance with its terms by appropriate legal remedy.
- 12 The execution, delivery and performance by the Vendor of this Agreement and each transaction contemplated by this Agreement does not or will not (with or without the lapse of time, the giving of notice or both) contravene, conflict with or result in a breach of or default under:
 - (a) any provision of the constitution of the Vendor;
 - (b) any material term or provision of any security arrangement, undertaking, agreement or deed; or
 - (c) any writ, order or injunction, judgement, or law to which it is a party or is subject or by which it is bound.

Shares

- 13 The Vendor is the sole legal and beneficial owners of the Shares, free from any Security Interests and Permitted Security Interests.
- 14 The Vendor has full power and authority to transfer legal and beneficial title to the Shares to the Purchaser.

- 15 The Shares comprise the entire issued share capital of the Company.
- 16 The Shares have been fully paid up and validly allotted and no moneys are owing in respect of them.
- 17 On Completion there will be no restriction on the sale or transfer of the Shares to the Purchaser on the terms of this Agreement, and at Completion the Purchaser will acquire the full legal and beneficial ownership of the Shares free and clear of all Security Interests and Permitted Security Interests, subject to registration of the Purchaser in the register of members.

Part B – Business Warranties**The Group**

- 18 Each Group Member is duly incorporated and validly exists under the law of its place of incorporation.
- 19 Each Group Member has full corporate power and authority to own its assets and business and to carry on its business as now conducted.
- 20 No Group Member is insolvent and no receiver has been appointed over any part of any Group Member's assets and no such appointment has been threatened in writing.
- 21 No Group Member is in liquidation and no proceedings have been brought or threatened in writing for the purpose of winding up any such Group Member.
- 22 So far as the Vendor is aware, there are no facts, matters or circumstances which give any person the right to apply to liquidate or wind up any Group Member.
- 23 No administrator has been appointed to a Group Member nor has any deed of company arrangement been executed or proposed in respect of any such Group Member.
- 24 No Group Member has entered into an arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them.
- 25 No Group Member is (or has taken to be under applicable legislation) unable to pay its debts, other than a debt or claim the subject of a good faith dispute, and has not stopped or suspended, or threatened in writing to stop or suspend, the payment of all or a class of its debts.
- 26 As at Completion:
- (a) the structure diagram for the Group set out in Schedule 10 is accurate and complete and shareholdings are 100%; and
 - (a) no Group Member has any equity interest in any entity other than the entities listed in Schedule 6.
- 27 The affairs of each Group Member have been conducted materially in accordance with the relevant entity's constituent documents.
- 28 On Completion there will be no options, agreements, or understandings (including pre-emptive rights or rights of first refusal) which entitle or may entitle any person to call for the purchase or transfer of any shares or other securities in the Company or any Group Member.
- 29 In respect of each Group Member:
- (a) at Completion, its shares have been validly issued, are fully paid and are free and clear of all Security Interests;
 - (b) it has not issued securities with conversion rights to shares or securities in it and there are no agreements or arrangements under which options or convertible notes have been issued by it; and
 - (c) there are no voting agreement or arrangements with respect to its securities.

Accounts and liabilities

- 30 The Accounts:
- (b) were prepared with due care in accordance with the Accounting Standards (as applicable to each Group Member) applied on a consistent basis (in all material respects) with the immediately preceding financial year;

- (a) give a true and fair view of the financial position of the Group as at the Accounts Date and the financial performance of the Group for the financial period ending on the Accounts Date;
- (b) disclose all known material liabilities of the Group as at the Accounts Date and contain provisions for them, to the extent required by, and in accordance with, the Accounting Standards.

The Management Accounts

31 The Management Accounts:

- (a) were prepared with due care and attention on a consistent basis, using the same principles, policies and practices as the preceding 12 months, including the principles, policies and practices used to prepare the Accounts;
- (b) having regard to the purpose for which they were prepared, give a materially accurate view of the financial position of the Group as at the date to which they were prepared and the financial performance of the Group for the period in respect of which they were prepared;
- (c) are not affected by any abnormal, extraordinary, exceptional or non-recurring items;
- (d) disclose all material liabilities of the Business as at their stated accounts date (whether actual, contingent or otherwise) and contain proper and adequate provision for them, in accordance with the Accounting Standards; and
- (e) are not misleading or deceptive in any respect;

32 Since the date of the Accounts to the date of this Agreement:

- (a) there has been no material change in the assets, liabilities, turnover, earnings, financial position, trading position affairs or performance of the Group;
- (b) the Group has conducted its business in the ordinary course;
- (c) no Group Member has:
 - (i) sold, disposed of or created a Security Interest over any of its assets worth more than \$1,000,000, except in the ordinary course of business;
 - (ii) acquired any assets worth more than \$1,000,000, except in the ordinary course of business;
 - (iii) declared or paid any dividend or other distribution of assets to its members;
 - (iv) entered into any contract or commitment requiring the payment of:
 - (A) more than \$250,000 on any one occurrence; or
 - (B) more than \$250,000 per annum for more than 3 years
 - (v) entered into any new external financing arrangements, or drawn down on existing credit facilities, other than debt repaid in accordance with clause 10.10;
 - (vi) entered into any agreements with the Vendor or any of its Related Entities (other than another Group Member), or any of their Representatives;
 - (vii) forgiven any amounts owing to the Group Member by a third party, in excess of \$100,000 in aggregate;
 - (viii) settled any claims or any litigation, arbitration or other legal proceedings in excess of the amounts provided for in respect of such claims litigation, arbitration or proceedings in the Accounts;

33 No bank guarantee or third party credit support (including the Bank Guarantees) has been procured by a Group Member other than in the ordinary course of business,

34 At Completion, there are no:

- (a) financing agreements or arrangements entered into by a Group Member for the borrowing of money (including pursuant to the External Debt Facility);
- (b) debentures, bonds, notes or similar debt instruments issued by a Group Member;
- (c) guarantees given by a Group Member, or to which a Group Member is otherwise subject, in relation to any other Group Member or any other person, other than the Bank Guarantees;
- (d) Security Interests over the assets or securities of a Group Member; or
- (e) financing arrangements that restrict the disposal of a Group Member.

Material Contracts

- 35 the Disclosure Material includes true and complete copies of each Material Contract to which a Group Member is a party as at the date of this Agreement.
- 36 Each Material Contract:
- (a) is in full force and effect and is valid and binding on the Group Member that is party to it in accordance with its terms;
 - (b) Is on arms' length and was entered into in the ordinary course of business;
- 37 No Group Member has done or permitted to be done anything that the Vendor consider, acting reasonably, would be likely to cause any Material Contract to be terminated.
- 38 So far as the Vendor is aware, no other party to a Material Contract is in default, or would be in default but for the requirements of notice or lapse of time, under that agreement.
- 39 There has been no failure by a Group Member to comply with a material obligation under any Material Contract.
- 40 No Group Member is in material breach of or material default under any Material Contract.
- 41 No Group Member has entered into an agreement that:
- (a) contains a non-compete undertaking in favour of any third party;
 - (b) contains an exclusivity provision that restricts a Group Member;
 - (c) contains a minimum order requirement in excess of \$250,000 that cannot be terminated on less than 3 months notice; or
 - (d) otherwise materially restricts the Group Member's ability to carry on the Business.
- 42 As at the date of this Agreement, no Group Member has received, or given, any notice of termination of any agreement to which it is a party that will, or would reasonably be likely to, have a material adverse effect on the Group Member.
- 43 No Group Member is party to any agreement or arrangement with a Vendor Group Member under which the Group Member is required to give a material financial benefit to that Vendor Group Member.

Assets

- 44 The Group Members own, or have the right to use, all of the assets that are material for the conduct of the Business as it is carried out as at the date of this Agreement.
- 45 There are no Security Interests over the tangible assets of the Group, except for:
- (a) any Security Interest disclosed in the Disclosure Material; and
 - (b) ordinary course hire purchase, lease, rental or similar agreements.

- 46 All assets owned or used by a Group Member:
- (a) are in good repair and condition having regard to their age;
 - (b) are in satisfactory working order and have been regularly and properly maintained;
 - (c) are capable of performing the functions for which they are used;
 - (d) are recorded in the books of the Group Members;;
 - (e) comply with all applicable laws, conform with all standards and have not been repaired, altered, modified, operated or maintained in a way that would void or otherwise affect any warranty provided by the suppliers of those assets; and
 - (f) are not dangerous or unsafe.

Leasehold Properties

- 47 The particulars of the Leasehold Properties set out in Schedule 5 are true and accurate.
- 48 The Leasehold Properties comprise all the land and premises used or occupied by a Group Member on its own account or for the benefit of another Group.
- 49 The Disclosure Material includes true, complete and accurate copies of each Lease to which a Group Member is a party.
- 50 Each Lease is registered (if required to be registered in the jurisdiction where the Leasehold Property is located), is legally valid and subsisting and binding on any registered mortgagee of the freehold and no Group Member has granted any sub lease, licence or exclusive or shared right to occupy or use any part of the leased premises.
- 51 No Group Member has agreed to an assignment, variation, surrender or termination of any Lease which has not been disclosed as at the date of this Agreement.
- 52 No Group Member has any freehold or leasehold interest in any land except for the Leasehold Properties.
- 53 The relevant Group Member has exclusive occupation and quiet enjoyment of the relevant Leasehold Property.
- 54 All buildings or other improvements on the Leasehold Properties are in such condition and state of repair as to be substantially fit for the purpose for which they are used by the Group Members.
- 55 No Group Member has received:
- (a) any notice to vacate or notice to quit from any third party pursuant to the Leases; or
 - (b) any notice from a Governmental Agency related to any of the Leasehold Properties that will, or would reasonably be likely to, adversely affect the exclusive occupation and quiet enjoyment of the Leasehold Properties by the relevant Group Members.
- 56 So far as the Vendor is aware, as at the date of this Agreement there is no event, circumstance or dispute (whether actual or threatened in writing), and no proposals have been made, or are intended to be made by a Governmental Agency which might reasonably be expected to adversely affect:
- (a) the exclusive occupation and quiet enjoyment of the Leasehold Properties by the relevant Group Members; or
 - (b) the enforcement by the Group Members of any rights and entitlements as owner or lessee of any Leasehold Property.

- 57 No Group Member is in default under or in breach of any Lease, and all rent, outgoings, rates and other amounts payable in respect of each Leasehold Property has been paid by the relevant Group Member.
- 58 Each material consent required under any legislation for any development or use carried out by the Group Members on any Property has been properly obtained. All conditions or restrictions imposed in any such consent have been observed and performed in all material respects.
- 59 There are no make good obligations at any Leasehold Premises that should have been performed at or before the date of this Agreement and have not been.
- 60 So far as the Vendor is aware, there are no factors affecting any of the Leasehold Properties that will give rise to any material liability for any Group Member under any environmental laws.

Intellectual Property

- 61 Schedule 8 contains a complete and accurate list of all Business Intellectual Property of which a Group Member is the registered proprietor or for which application has been made by a Group Member.
- 62 Details of all material Intellectual Property Rights used by any Group Member (including registrations and applications for registration of such Intellectual Property Rights), all material written or unwritten licences of Intellectual Property Rights granted to or by any Group Member and all material domain names and business names registered, licensed or otherwise used by any Group Member are included in the Disclosure Material.
- 63 A Group Member is the sole legal and beneficial owner of all Business Intellectual Property, free from encumbrances and Third Party rights.
- 64 No person other than the Group Members have any right to use, or any interest in, or may benefit from any Business Intellectual Property.
- 65 All Intellectual Property Rights owned by a third party that are used by any Group Member are licensed under the ACM Licence.
- 66 The Business Intellectual Property Rights and the Intellectual Property Rights licensed under the ACM Licence are all the Intellectual Property Rights necessary for the conduct of the Business as carried on immediately before Completion.
- 67 As at the date of this Agreement, no person has given written notice to any Group Member alleging any material breach or infringement by the Group in respect of any Intellectual Property Rights that are used by the Group, and the Vendor is unaware of any facts or circumstances that may give rise to such breach or infringement.
- 68 So far as the Vendor is aware, no person is infringing or has infringed any Business Intellectual Property.
- 69 No oppositions, cancellation actions, proceedings, claims or complaints have been brought or threatened by any Third Party or any governmental agency in relation to the Business Intellectual Property.
- 70 No Group Member has granted any right to use or any interest in any Business Intellectual Property and no Group Member is obliged to grant any such a right.
- 71 The conduct of the Business does not breach or infringe any Intellectual Property Rights or moral rights of any Third Party.
- 72 A Group Member is the sole registrant of all domain names listed in Schedule 8, and all domain names used in the Business are listed in Schedule 8.

- 73 No Group Member carries on business under any name other than its corporate name of the business name registrations listed in Schedule 8.
- 74 All employment, services or consultancy agreements to which a Group Member is a party stipulate that any Intellectual Property Rights developed by the counterparty during the course of their employment or engagement with the Group Member, is exclusively owned by the relevant Group Member, and as at Completion all such Intellectual Property Rights have been assigned to the relevant Group Member.
- 75 The Group and Vendor have kept confidential all confidential information of the Group and no confidential information of the Group has been disclosed or made available to any third party, except in the ordinary course of business and subject to a binding obligation of confidentiality on the part of the recipient.
- 76 No Group Member has entered into any confidentiality or other agreement, or is subject to any obligation, that restricts the free use or disclosure of any information used by the Group in connection with the Business.
- 77 For the purposes of warranties 75 and 76, 'confidential information' of the Group includes all databases, source codes, methodologies, manuals, artwork, trade secrets, and all financial, accounting, sales and operating information, marketing, strategy and technical plans and information, child, customer and supplier lists, costs and pricing information, know how, technology, operating procedures and other information of a confidential nature, used by or relating to the Business.

Information Technology

- 78 The information technology and telecommunications systems, hardware and software owned or used by the Group in the conduct of the Business as at the date of this agreement (**Systems**) comprise all the information technology and telecommunications systems, hardware and software necessary for the conduct of the Business as conducted at Completion.
- 79 All Systems are either owned or validly licensed for use by, and are under the control of, a Group Member.
- 80 No Systems, Business Records or Personal Information of the Group have been subject of:
- (a) any unauthorised access (including hacking, ransomware and other similar events), use, disclosure or loss; or
 - (b) any action that prevents the Group from accessing the Systems, Business Records, Personal Information on either a temporary or permanent basis;
- in either case, whether involving any officer, employee, or contractor of the Group or any other person, in the 12 months prior to the date of this document.
- 81 The handling of Personal Information by the Group has been consistent in all material respects with all representations included in privacy policies and privacy statements that apply to the Group, and all representations made by those privacy policies and privacy statements.
- 82 The Group has complied in all material respects with applicable Privacy Laws.
- 83 The Group holds all consents in relation to Personal Information that are necessary to conduct the Business in the manner that it is conducted prior to Completion.
- 84 The Group has reasonable technical and operational safeguards in place to protect Personal Information in its possession or control from unauthorised access, use, modification, interference or disclosure by third persons.

85 There are no unresolved complaints or privacy breaches relating to unauthorised access, loss or disclosure of Personal Information that occurred in the 12 months prior to the date of this agreement about any Personal Information in the possession or control of the Group.

86 Except as disclosed in a privacy policy of the Group, the Group does not transfer any Personal Information outside Australia.

Employees

87 The Disclosure Material includes a list of all of the Employees employed by the Group as at 31 January 2022 and the details, including remuneration package (including bonuses, profit share, and employee incentive plan entitlements), applicable allowances, redundancy and termination entitlements and details of leave (including long service leave, annual leave and personal/carer's leave) and other entitlements, are correct.

88 No Group Member is under, nor will it assume before Completion, any liability (or increase in liability) to any Employee for any pension, lump sum retiring allowance or redundancy payment or any liability with respect to annual, long service or personal leave.

89 As at the date of this document, no Employee (or, director or contractor, or former employee, director or contractor, of a Group Member) is, or may become, entitled to any bonus, compensation, payment or other benefit which is triggered by the execution of or completion of this document.

90 So far as the Vendor is aware, each contract entered into by a Group Member with an Employee is enforceable against the parties to it and as at the date of this Agreement there is no party in material breach of, or default under, any such contract.

91 As at the date of this Agreement, no Group Member has been involved in any dispute with any union or Employee at any time within the 6 months preceding the date of this agreement that will, or would reasonably be likely to, have a material adverse effect on the Group.

92 As at the date of this Agreement there is no current or threatened dispute involving a Group Member with any union, Employee, former employee, contractor or former contractor that remains unresolved and the Group has no knowledge of any circumstances that will, or would reasonably be likely to, give rise to any such dispute.

93 No Group Member has been involved in any material dispute with any Employees, union, former employees, contractors or former contractor at any time within the 5 years preceding the date of this agreement and there are no circumstances likely to give rise to any such dispute.

94 As at the date of this Agreement, no unresolved claim has been made, nor has a Group Member received written notice of any potential claim, by or on behalf of any Employee, former employee, contractor or former contractor against a Group Member.

95 As at the date of this Agreement no Employee has made a worker's compensation claim that remains unresolved and, so far as the Vendor is aware, there are no potential workers compensation claims.

96 Each Group Member:

- (a) has workers compensation insurance in place;
- (b) has paid its workers compensation insurance up to date;
- (c) has not experienced an increase in its workers compensation insurance premium over the last 3 years; and
- (d) has not been subject to an external audit by the workers compensation Workers Compensation Insurance Authority in the last 3 years.

- 97 There is no current or, so far as the Vendor is aware, threatened investigation, notice, compliance or improvement notice or prosecution of any Group Member under workplace health and safety laws and so far as the Vendor is aware, there are no facts, matters or circumstances which may give rise to any such investigation, notice or proceeding.
- 98 The Disclosure Material contains full details of all notices, compliance or improvement notices, prosecutions and fines received by the Group in respect of any breach or alleged breach of workplace health and safety laws or standards within a period of 6 years prior to the date of this document.
- 99 No Group Member:
- (a) has been subject to a Work Safety Authority inspection in the last 3 years;
 - (b) has received an improvement notice or prohibition notice from the Work Safety Authority in respect of work health and safety; and
 - (c) is currently subject to an investigation or prosecution by the Work Safety Authority.
- 100 Each Group Member materially complies with all employment related obligations under employment contracts, industrial instruments (including enterprise agreements and modern awards), statutes and otherwise at law that apply to the Employees and with all codes of conduct and practice relevant to conditions of service and to the relations between it and the employees employed by it. This warranty also applies to former employees.
- 101 The Disclosure Material contains full details of all correspondence, agreements, arrangements, undertakings and understandings with or to any workplace regulator or authority (including the Fair Work Ombudsman) in connection with the Group's alleged or actual non-compliance with Australian employment laws.
- 102 As at the date of this Agreement, no Group Member has received any notice of any material breach by any Group Member of its legal or contractual obligations concerning the employment of any of the Employees.
- 103 No Group Member is a party to any workplace agreement with a trade union or industrial organisation, group of employees or individual employees in respect of the Employees and their employment and no industrial awards or workplace agreements apply to any Employees Group Member except as disclosed in the Disclosure Materials.
- 104 Each Group Member has complied in all material respects with its obligations to make superannuation contributions which it is obliged to make on behalf of the Employees.
- 105 No Group Member contributes to, nor has any obligation to contribute to, a defined benefits fund in respect of any Employee.
- 106 No contractor currently or previously engaged by a Group Member (nor any of the personnel of an independent contractor) is or was an employee of any Group Member (or is or was entitled to be treated as one) at law whilst engaged as a contractor by the Group.
- 107 There is no existing or, so far as the Vendor is aware, threatened, pending or anticipated investigation by any regulator or authority, or claim by an independent contractor, against a Group Member in relation to an allegation that an independent contractor was not properly characterised as such.
- 108 Each Group Member has materially complied with all laws in relation to any persons currently or formerly engaged by a Group Member as an independent contractor, including laws relating to tax and superannuation and, so far as the Vendor is aware, no Group Member is in breach of any agreement, arrangement or understanding with any person currently or formerly engaged as an independent contractor.

- 109 No person currently or previously engaged by a Group Member as a casual employee is or was in fact a permanent employee of any Group Member (or is or was entitled to be treated as one).
- 110 There is no existing or, so far as the Vendor is aware, threatened, pending or anticipated investigation by any regulator or authority, or claim by a casual employee, against a Group Member in relation to an allegation that the casual employee was not properly characterised as such.
- 111 Each Group Member has materially complied with all laws in relation to any persons currently or formerly engaged by a Group Member as a casual employee, and, so far as the Vendor is aware, no Group Member is in breach of any agreement, arrangement or understanding with any person currently or formerly engaged as a casual employee.

Compliance with laws

- 112 The Group has all Approvals that are necessary to conduct the Business as it is being carried on at the date of this Agreement and has paid all fees due in relation to them and each of those Approvals is valid.
- 113 Each Group Member has complied in all material respects with all applicable laws, administrative requirements and Approvals.
- 114 No Group Member has received any written notice from a Governmental Agency advising it that it has not complied with any applicable law or Approval.
- 115 No Group Member has done or omitted to do, nor is the Vendor aware of, any act or thing that might prejudice the continuance, renewal, issue or extension of any Approval after Completion.
- 116 The Group has complied with, and continues to be in compliance with, with the terms of all funding arrangements, grants, subsidies and similar arrangements, with or provided by a government entity.
- 117 No Group Member is subject to any investigation or enquiry by any Governmental Agency and none is pending or threatened by written notice and so far as the Vendor is aware, no circumstances exist that might reasonably be expected to give rise to such an investigation or enquiry.

Litigation

- 118 No Group Member is engaged in any litigation, mediation, arbitration or other dispute resolution process or criminal, administrative or governmental proceeding, and, no such action is threatened by written notice.
- 119 There are no unsatisfied or outstanding orders, settlements, judgments, awards, fines, determinations or enforcement undertakings against any Group Member.

Insurance

- 120 Each Group Member is, and has at all material times been, covered by valid insurance, in compliance with applicable laws and, so far as the Vendor is aware, written agreements which require it to effect any insurance.
- 121 The insurance cover relating to the Group or the Business disclosed in the Disclosure Materials is current and in force and all applicable premiums have been paid and, so far as the Vendor is aware, as at the date of this Agreement no fact or circumstance exists that would render any such insurance void or unenforceable in any material respect or that would permit an insurer to cancel the policy or materially reduce a claim or materially increase the premiums payable, and there are no claims outstanding in relation to such cover.

Business Records

- 122 All Business Records (which for the avoidance of doubt excludes the Accounts and any tax records):
- (a) are complete, accurate and up-to-date in all material respects; and
 - (b) have been properly maintained by, and are in the possession or under the custody or control of, the Group, in each case, in accordance with applicable law in all material respects.
- 123 Each material document or filing that is required by law to have been delivered or made to any Governmental Agency by a Group Member has been duly delivered or made.

Tax warranties

- 124 All Tax which has been assessed or imposed by a Taxation Authority in respect of the Group Members prior to Completion has been duly paid or provisioned for in the Completion Statement;
- 125 All amounts required by any Tax law to be withheld by any Group Member at source have been correctly withheld and accounted for to the proper Taxation Authority;
- 126 All returns which are or have been required to be lodged by or on behalf of any Group Member for any Tax purpose:
- (a) have been lodged within the requisite periods and on a proper basis and are up-to-date and in all material respects correct; and
 - (b) none of them is or is expected to be the subject of any dispute with or investigation by any Taxation Authority;
- 127 No Group Member has paid or become liable to pay any material interest, penalty, surcharge or fine relating to Tax;
- 128 No Group Member has been subject to or is currently subject to any non routine investigation or audit by any Taxation Authority;
- 129 Each Group Member that is required to be registered for GST is duly registered for GST;
- 130 No Group Member has claimed any material GST input tax credits or reduced input tax credits to which it is not entitled and all credits have been claimed in the correct tax period;
- 131 All documents, instruments, contracts, agreements, deeds or transactions which are liable to stamp duty, or necessary to establish the title of each Group Member to an asset, have had stamp duties paid in full; and
- 132 Each Group Member that is incorporated in Australia is a member of the Australian Income Tax consolidated group for which the Company is the head company.
- 133 The commercial debt forgiveness rules contained in Division 245 of the Tax Act (or its predecessor provisions in schedule 2C of the Tax Act) have not applied (and will not apply) in relation to any transaction, act or omission of any Group Member occurring or arising on or before Completion which resulted in a net forgiven amount.
- 134 No Group Member has been a party to or otherwise involved in any transactions to which any tax avoidance or tax integrity provision or any other similar general anti avoidance provisions in a Tax Law can apply (including, but not limited to, Part IVA of the Tax Act or Division 165 of the GST Act).
- 135 Deductions for depreciation or allowances (including under Division 40 or Division 43 of the Tax Act and Subdivision 328-D of the Tax Act and Subdivision 40-BB of the Income Tax (Transitional

- Provisions) Act 1997 (Cth) in respect of assets owned by any Group Member are properly deductible under the Tax Law and accurate records have been kept and are in the possession of the relevant Company.
- 136 Elections made by any Group Member to make an Accelerated Depreciation Measure Opt Out Choice or a Temporary Full Expensing Measure Opt Out Choice in respect of any return relating to Pre-Completion period have been made on a proper basis and are valid.
- 137 No reconstruction relief has been claimed and there will be no clawback as a result of this Agreement.
- 138 No act or omission of any Group Member at or before Completion will cause any Group Member to be liable for franking tax after Completion.
- 139 There will not be any franking debit to the Company's franking account after Completion that relates to a transaction or arrangement entered into at or before Completion.
- 140 Any pre-completion dividends (including the Permitted Dividend) are franked to the maximum extent permitted by Tax Law.
- 141 Each Group Member is a solely tax resident in Australia.
- 142 the office of public officer as required under any Tax Law for the Group Members has always been occupied.
- 143 No Group Member has elected tax rollover or capital gains tax relief in relation to any asset held at Completion.
- 144 The Company does not have a tainted share capital account or taken any action that might cause its share capital account to become a tainted share capital account or made any election at any time to untaint its share capital account.
- 145 The Company has at all times applied the payroll tax-free annual threshold in accordance with Tax Law.
- 146 Each Group Member has paid on the relevant due date for payment, any amount payable by that Group Member to a Governmental Agency in respect of the JobKeeper Scheme; and otherwise complied with all requirements of the JobKeeper Scheme which are applicable to it.

Information

- 147 The information relating to the Group and the Business contained in the Disclosure Materials has been prepared in good faith and is accurate in all material respects. The Vendor has not included any such information in the Disclosure Materials that it is aware is misleading in any material respect, and no such information has been omitted from the Disclosure Materials that would render the Disclosure Materials misleading in any material respect.
- 148 The Vendor is not aware of any materially adverse information relating to the Business that has not been made available to the Purchaser before the date of this agreement.

Schedule 2

Purchaser's and Guarantor's Warranties

PART A: PURCHASER WARRANTIES

Incorporation and Existence

- 1 The Purchaser is duly incorporated and validly exists under the law of its place of incorporation.
- 2 The Purchaser is not insolvent and no receiver has been appointed over any part of the assets of the Purchaser, and no such appointment has been threatened in writing.
- 3 The Purchaser is not in liquidation and no proceedings have been brought or threatened in writing for the purpose of winding up the Purchaser.
- 4 The Purchaser has not entered into any written arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them.
- 5 The Purchaser is not (or is not taken under applicable legislation to be) unable to pay its debts, other than a debt or claim the subject of a good faith dispute, and has not stopped or suspended, or threatened to stop or suspend, the payment of all or a class of its debts.
- 6 The execution and delivery of this Agreement and the W&I Insurance Policy (each a **Transaction Document**) has been properly authorised by all necessary corporate action of the Purchaser.
- 7 The Purchaser has full corporate power and lawful authority to execute and deliver each Transaction Document, and to consummate and perform or cause to be performed its obligations under the Transaction Documents and each transaction contemplated by the Transaction Documents to be performed by it.
- 8 Each Transaction Document constitutes a legal, valid and binding obligation of the Purchaser enforceable in accordance with its terms by appropriate legal remedy.
- 9 The execution, delivery and performance by the Purchaser of each Transaction Document and each transaction contemplated by each Transaction Document, does not or will not contravene, conflict with or result in a breach of or default under:
 - (a) any provision of its constitution;
 - (b) any material term or provision of any security arrangement, undertaking, agreement or deed; or
 - (c) any writ, order or injunction, judgment, law, rule or regulation to which it is a party or is subject or by which it is bound.

No Third Party Beneficiary

- 10 The Purchaser enters into and performs this Agreement on its own account and not as trustee or nominee of any other person.

Funding Commitments

- 11 As at Completion, the Purchaser has in place and available to it either (or in combination) sufficient debt funding arrangements or cash to meet all of its payment obligations under this Agreement.

PART B: GUARANTOR WARRANTIES**Incorporation and Existence**

- 1 The Guarantor is duly incorporated and validly exists under the law of its place of incorporation.
- 2 The Guarantor is not insolvent and no receiver has been appointed over any part of the assets of the Guarantor, and no such appointment has been threatened in writing.
- 3 The Guarantor is not in liquidation and no proceedings have been brought or threatened in writing for the purpose of winding up the Purchaser.
- 4 The Guarantor has not entered into any written arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them.
- 5 The Guarantor is not (or is not taken under applicable legislation to be) unable to pay its debts, other than a debt or claim the subject of a good faith dispute, and has not stopped or suspended, or threatened to stop or suspend, the payment of all or a class of its debts.
- 6 The execution and delivery of this Agreement has been properly authorised by all necessary corporate action of the Guarantor.
- 7 The Guarantor has full corporate power and lawful authority to execute and deliver this Agreement, and to consummate and perform or cause to be performed its obligations under this Agreement and each transaction contemplated by this Agreement to be performed by it.
- 8 This Agreement constitutes a legal, valid and binding obligation of the Guarantor enforceable in accordance with its terms by appropriate legal remedy.
- 9 The execution, delivery and performance by the Guarantor of this Agreement and each transaction contemplated by this Agreement, does not or will not contravene, conflict with or result in a breach of or default under:
 - (a) any provision of its constitution;
 - (b) any material term or provision of any security arrangement, undertaking, agreement or deed; or
 - (c) any writ, order or injunction, judgment, law, rule or regulation to which it is a party or is subject or by which it is bound.

No Third Party Beneficiary

- 10 The Guarantor enters into and performs this Agreement on its own account and not as trustee or nominee of any other person.

Schedule 3

Accounting Principles

1 General

The Completion Statement must be prepared in accordance with, in order of precedence (and for the avoidance of doubt paragraph (a) shall take precedence over paragraphs (b) and (c), and paragraph (b) shall take precedence over paragraph (c)):

- (a) the specific principles, policies, procedures and categorisations set out in section 2 of this Schedule 3;
- (b) to the extent an item is not covered by the principles, policies and procedures referred to in section 1(a) of this Schedule 3, in a manner consistent with the principles, policies and procedures as were actually used in the preparation of the Accounts (including consistency in relation to the exercise of accounting discretion and judgement); and
- (c) to the extent an item is not covered by the principles, policies and procedures referred to in sections 1(a), 1(b) of this Schedule 3, in accordance with the Accounting Standards in force as at the Accounts Date.

2 Specific principles, policies and procedures

- (a) The Completion Statement will be prepared using the information extracted from the accounting records of the Group and in accordance with those specific procedures that would be adopted at a financial year end, including detailed analysis of accruals and prepayments and cut-off procedures.
- (b) The Completion Statement will be drawn up as at the Effective Time. No account will be taken of events taking place after the Effective Time and regard will only be given to information arising after the Effective Time up to the date that the draft Completion Statement are delivered by the Purchaser to the Vendor (the Cut-Off Time).
- (c) The Completion Statement will be prepared on the basis that the Group is a going concern, on a 'business as usual' basis and on the assumption that the Group has not undergone a change of ownership. No change in the valuation of assets and liabilities arising as a result of Completion and the consequential change of control of the Group will be reflected in the Completion Statement, including any effect as a result of aligning any accounting policies of the Group with those of the Purchaser.
- (d) No adjustment, provision, charge, reserve or write off will be included in the Completion Statement in respect of any costs, liabilities or charges incurred after the Effective Time:
 - (i) as a consequence of the change of ownership of the Group;
 - (ii) arising from any change in strategy, direction or priority in relation to the business of the Group which results from a change of ownership of the Group; or
 - (iii) in respect of any reorganisation, restructuring of the Group or any of its assets or any undertakings or obligations by any person after Completion.
- (e) No amounts in relation to those line items included under the heading "Other" in Part A of Schedule 4 will be included in the Completion Net Debt Amount, the Completion Working Capital Amount, the Estimated Net Debt Amount or the Estimated Working Capital Amount.
- (f) Balances between Group Members will be reconciled and eliminated. Any unreconciled assets will be written off and any unreconciled liabilities will be released.

- (g) The provisions of this Schedule 3 and of Schedule 4 will be interpreted so as to avoid double counting (whether positive or negative) of any item to be included in the Completion Statement.
- (h) No funds flow arising from Completion shall be included in any calculation relevant to the preparation of the Completion Accounts.
- (i) No asset shall be included in respect of capitalised debt issue costs, loan arrangement fees or deferred borrowing costs.
- (j) Any provisions for long service leave to be included in the Completion Statement will be calculated applying the same methodologies and assumptions (including with respect to the application and calculation of on-costs, discount rates and probability factors) used in the preparation of the Accounts.
- (k) Any provisions for annual leave to be included in the Completion Statement will be calculated applying the same methodologies and assumptions (including with respect to the application and calculation of on-costs and leave loading) used in the preparation of the Accounts.
- (l) The Completion Statement will include a full accrual in respect of any unpaid salaries and wages (including termination or redundancy payments if any, or other entitlements which an Employee is entitled to), including with respect to any bonuses which employees are contractually entitled to prior to the Effective Time in respect of any bonus scheme introduced and communicated to the relevant employees prior to the Effective Time. In each case, including an accrual for relevant leave loading and on-costs including but not limited to superannuation, payroll tax and workers compensation. No provision or accrual will be included in the Completion Statement in respect of any bonus scheme except where that scheme was introduced prior to Completion. Bonus accruals in respect of bonus scheme periods which bridge the Effective Time will be calculated on a pro-rata basis, based on the performance against the bonus target up to the Effective Time.
- (m) For the purposes of the Completion Statement, the Effective Time will be treated as the end of a Tax accounting period.
- (n) The Completion Statement will be prepared on the basis that the income Tax provision included in the Completion Statement will be limited to amounts which, as at the Effective Time are accrued, due or payable less any payments on account of such income Tax made in respect of the period prior to the Effective Time or amounts receivable in relation to income Tax already paid, to the extent consistent with the same accounting principles, policies, procedures, practices, categorisations, definitions, methods, and estimation techniques (including in respect of the exercise of management judgment) adopted in the Accounts, applied on a consistent basis provided in all cases consistent with Tax law in force at Completion.
- (o) The income Tax provision included in the Completion Statement will be calculated:
 - (i) on the basis that the Target and Group makes an Accelerated Depreciation Measure Opt Out Choice and a Temporary Full Expensing Measure Opt Out Choice in respect of the relevant assets (as applicable); and
 - (ii) on the basis that there will be no double-counting of any Tax (or Tax related) amounts separately factored into the Completion Payment or Purchase Price, including (but not limited to) tax deductions factored into the amount of the Transaction Bonuses and Market Street Exit Payment included in the calculation of the Completion Payment and Purchase Price (i.e. 80% of the gross amount rather than 100% of the gross amount). Such Tax (or Tax related) amounts will

not be included in the calculation of the income Tax provision included in the Completion Statement.

- (p) GST receivables balances (within the Completion Working Capital Amount) will not include any input tax credits in relation to any unpaid Transaction Costs at the Effective Time.
- (q) To the extent that a new GL account (other than those listed in Part A Schedule 4) is introduced in respect of the period before Completion, the Purchaser and the Vendors will negotiate in good faith to determine whether or not that asset or liability forms part of or comprise Completion Working Capital Amount or Completion Net Debt Amount or is excluded.
- (r) Notwithstanding any other provision of this Schedule 3, the Completion Statement will exclude amounts in relation to the following:
 - (i) deferred tax assets and deferred tax liabilities;
 - (ii) accruals or provisions for sick, personal or carers leave;
 - (iii) any provision or accrual for lease liabilities in accordance with AASB 16;
 - (iv) any make good, onerous lease, remediation or dilapidation provisions;
 - (v) any amount for any contingent liability (as defined in accordance with AASB 137), or any part of any contingent liability;
 - (vi) any costs incurred by the Purchaser (or, after Completion, the Group) or charged by the Purchaser to any Group Company in connection with the Transaction and any other transaction provided under this document or any other Transaction Document.
- (s) For the avoidance of doubt, in the event of any conflict between the list of ledger accounts set out in Part A of Schedule 4 and any other provisions of this agreement (including either the definitions or the accounting policies set out in clauses 2(a) to 2(n) of this Schedule 3), the other provisions of this agreement will take precedence.

Schedule 4

Part A – Form of Completion Statement

Part B – Form of Estimated Completion Statement

Schedule 5

Leasehold Property

Schedule 6

Group Members

Schedule 7

Bank Guarantees

Schedule 8

Business Intellectual Property

Schedule 9

Campuses

Schedule 10

Structure Diagram

Executed as an agreement.

Purchaser

Executed by
BlueTang OpCo Pty Ltd
by

sign here ► /s/ John G. Casagrande

Company Secretary/Director
print name John G. Casagrande

sign here ► /s/ Elizabeth J. Boland

Director
print name Elizabeth J. Boland

Guarantor

Executed by
Bright Horizons Family Solutions LLC
By

sign here ► /s/ Elizabeth J. Boland

Authorised signatory
print name Elizabeth J. Boland

Vendor

Executed by
Nemo (BC) Cayman, LP
By: BCPE Nemo GP LLC, its general partner

sign here ► /s/ David Gross-Loh

Authorised signatory
print name David Gross-Loh

CERTIFICATION OF CHIEF EXECUTIVE OFFICER, BRIGHT HORIZONS FAMILY SOLUTIONS INC.

I, Stephen Kramer, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Bright Horizons Family Solutions Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 5, 2022

/s/ Stephen Kramer

Stephen Kramer
Chief Executive Officer

CERTIFICATION OF CHIEF FINANCIAL OFFICER, BRIGHT HORIZONS FAMILY SOLUTIONS INC.

I, Elizabeth Boland, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Bright Horizons Family Solutions Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
 - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: August 5, 2022

/s/ Elizabeth Boland

Elizabeth Boland
Chief Financial Officer

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Bright Horizons Family Solutions Inc. (the "Company") on Form 10-Q for the quarter ended June 30, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Stephen Kramer, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that based on my knowledge:

- 1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- 2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 5, 2022

/s/ Stephen Kramer

Stephen Kramer
Chief Executive Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Bright Horizons Family Solutions Inc. and will be retained by Bright Horizons Family Solutions Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

The foregoing certification is being furnished solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code) and is not being filed as part of the Form 10-Q or as a separate disclosure document.

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of Bright Horizons Family Solutions Inc. (the "Company") on Form 10-Q for the quarter ended June 30, 2022, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Elizabeth Boland, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that based on my knowledge:

- 1) the Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
- 2) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: August 5, 2022

/s/ Elizabeth Boland

Elizabeth Boland
Chief Financial Officer

A signed original of this written statement required by Section 906, or other document authenticating, acknowledging, or otherwise adopting the signature that appears in typed form within the electronic version of this written statement required by Section 906, has been provided to Bright Horizons Family Solutions Inc. and will be retained by Bright Horizons Family Solutions Inc. and furnished to the Securities and Exchange Commission or its staff upon request.

The foregoing certification is being furnished solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of Section 1350, Chapter 63 of Title 18, United States Code) and is not being filed as part of the Form 10-Q or as a separate disclosure document.