

COURT FILE NO. 1801 - 10477
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



IN THE MATTER OF THE RECEIVERSHIP OF HATSIZE LEARNING COMPANY

APPLICANT THE BANK OF MONTREAL
RESPONDENT HATSIZE LEARNING CORPORATION
DOCUMENT **ORIGINATING APPLICATION**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Gowling WLG (Canada) LLP
1600, 421 – 7th Avenue SW
Calgary, AB T2P 4K9
Attn: Tom Cumming / Caireen E. Hanert
Tel: 403-298-1938 / 403-298-1992
Fax: 403-695-3538
Email: tom.cumming@gowlingwlg.com / caireen.hanert@gowlingwlg.com
File: A158943

NOTICE TO THE RESPONDENT:

This application is made against you. You are the respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Date: Friday, August 3, 2018
Time: 10:00 a.m.
Where: Calgary Courts Centre
Before: The Honourable Madam Justice K.M. Eidsvik on the Commercial List

Go to the end of this document to see what else you can do and when you must do it.

Basis for this claim:

1. The Applicant Bank of Montreal (“**BMO**”) is a financial institution and carries on business in the City of Calgary and elsewhere in the Province of Alberta.
2. The Respondent Hatsize Learning Corporation (“**Hatsize**”) is a corporation incorporated pursuant to the laws of the Province of Alberta. Hatsize conducts business in the City of Calgary providing cloud-based training solutions for various computer software products.

Loan Agreement and Security

3. Pursuant to a commitment letter dated February 5, 2015 (as amended, restated, supplemented or otherwise modified from time to time, the “**Credit Agreement**”) between BMO as lender, and Hatsize as borrower, BMO agreed to provide, and Hatsize agreed to accept, certain credit facilities, including an operating lending facility (“**Credit Facility #1**”), a non-revolving and/or fixed-term rate loan (“**Credit Facility #2**”) and a corporate Mastercard facility (the “**Mastercard Facility**”, and collectively with Credit Facility #1 and Credit Facility #2, the “**Facilities**”), all on the terms set out in the Credit Agreement and the Loan Documents (as defined below).
4. The loan agreements between BMO as lender and Hatsize as borrower comprise the following:
 - (a) Credit Agreement;
 - (b) Operating Loan Agreement with Availment in Canadian Dollars dated February 12, 2016;
 - (c) Fixed Rate Term Loan Agreement dated February 26, 2016;
 - (d) Corporate Mastercard Account Agreement (Commercial) dated March 1, 2016;
 - (e) EDC Guarantee Approval dated February 25, 2016 (in respect of Credit Facility #1);

(f) EDC Guarantee Approval dated February 25, 2016 (in respect of Credit Facility #2); and

(g) the Security (as defined below)

(collectively, the “**Loan Agreements**”).

5. Terms of the Loan Agreements include, *inter alia*, the following:

(a) Credit Facility #1 is on a demand basis and payable in whole or in part upon demand by BMO;

(b) Hatsize will pay all reasonable costs, charges and expenses incurred by BMO in the enforcement of the Loan Agreements;

(c) Hatsize must comply with various financial covenants, including maintaining:

(i) A minimum Working Capital Ratio (as defined in the Credit Agreement) of 1:1;

(ii) A maximum senior debt to EBITDA ratio of 2.00:1; and

(iii) A minimum Debt Service Coverage Ratio (as defined in the Credit Agreement) of 1.25:1

(collectively, the “**Financial Covenants**”);

(d) An event of default occurs if, *inter alia*:

(i) Hatsize fails to comply with the Financial Covenants;

(ii) BMO determines that there has been a materially adverse change in the business, assets, operations, prospects or condition, financial or otherwise, of Hatsize; or

(iii) BMO in good faith and commercially reasonable grounds deems itself insecure or decides that the due discharge of the Obligations (as defined below), the collateral or the security is in jeopardy

(each, an “**Event of Default**”);

(e) Upon the occurrence of an Event of Default, BMO may, *inter alia*:

(i) Declare the Obligations (as defined below) in respect of the Loan Agreements to be immediately due and payable;

(ii) Apply to a court for the appointment of an interim receiver or a receiver and manager of the undertakings, property and assets of Hatsize; and

(iii) Exercise all other such rights and remedies under the Loan Agreements.

6. The Indebtedness, liabilities and obligations of Hatsize to BMO under the Credit Agreement (the “**Obligations**”) are secured by a general security agreement dated February 12, 2016 (the “**Security**”) granted by Hatsize to BMO.

7. It is an express term of the Security that Hatsize shall pay to BMO all reasonable expenses, including solicitor’s fees as between a solicitor and his own client and disbursements, and the remuneration of any receiver appointed to enforce the Security or the Obligations, which BMO and any receiver appointed by it may incur in connection with, *inter alia*, the administration of the Security and the exercise or enforcement of any of the rights of BMO under its terms.

8. In addition, the Obligations under each of Credit Facility #1 and Credit Facility #2 are in part guaranteed by Export Development Canada by EDC Guarantee Approvals dated February 25, 2016.

9. In accordance with the Credit Agreement, BMO advanced funds to Hatsize. As at July 25, 2018, the aggregate indebtedness of Hatsize owing to BMO under the Facilities was \$1,158,936.80 (which, together with interest accruing thereon and the costs, expenses, professional fees and disbursements of BMO, is referred to as the “**Indebtedness**”).

Default and Forbearance

10. On or about April 20, 2018, BMO sent a letter to Hatsize (the “**Default Letter**”) to notify Hatsize that Hatsize was in default of the Financial Covenants. In particular, in respect of the financial period ending January 31, 2018, Hatsize failed to meet the Financial Covenants as follows:
 - (a) Its Working Capital Ratio was 0.38:1;
 - (b) Its Senior Debt to EBITDA ratio was 3.79:1; and
 - (c) Its Debt Service Coverage Ratio was 0.34:1(collectively, the “**Existing Defaults**”).
11. Notwithstanding BMO’s right to terminate the Facilities and demand immediate repayment of the Indebtedness provided under the Loan Agreements, BMO agreed to continue to make accommodation available under the Facilities subject to the satisfaction and compliance with certain obligations set out in the Default Letter, including the closing of a proposed sale of the business and assets of Hatsize (the “**Proposed Sale**”) by no later than June 30, 2018.
12. On or about June 8, 2018, Hatsize advised BMO that the potential buyer had terminated the Proposed Sale.

Demand and Notice of Intention to Enforce

13. By letter dated June 13, 2018, BMO advised Hatsize that its inability to complete the Proposed Sale and to cure the Existing Defaults constituted material adverse developments that jeopardized Hatsize’s financial viability and BMO’s security position. Accordingly, BMO demanded that Hatsize repay the Indebtedness in full, terminated the Facilities and issued a notice of intention to enforce security under section 244(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended.

14. On or about June 27, 2018, Hatsize and BMO entered into a forbearance agreement (the “**Forbearance Agreement**”), whereby BMO agreed to forbear from exercising its rights, remedies and recourses under the Loan Agreement. The Forbearance Agreement also provided that, *inter alia*:
- (a) Hatsize shall confirm and acknowledge that the Existing Defaults have occurred and are continuing;
 - (b) Hatsize shall consent to the engagement of Deloitte Restructuring Inc. (“**Deloitte**”) as a financial monitor for BMO;
 - (c) Hatsize shall consent to the appointment of Deloitte as receiver and manager of Hatsize’s property (as defined in the Forbearance Agreement);
 - (d) The term of the Forbearance Agreement shall end on the earlier of July 12, 2018 and the occurrence of any Terminating Event (as defined in the Forbearance Agreement, and such term being the “**Forbearance Period**”); and
 - (e) Notwithstanding that the Forbearance Period has not yet terminated, if by no later than June 25, 2018 Hatsize has not entered into a binding agreement pursuant to which BMO would be refinanced or all or substantially all of Hatsize’s property would be purchased for an amount sufficient to repay in full the Obligations, BMO may immediately file materials with the Court of Queen’s Bench of Alberta to support its application for an order appointing a receiver, along with a Consent Receivership Order (as defined in the Forbearance Agreement) consented to by Hatsize.
15. On or about July 12, 2018, the Forbearance Period was extended to July 31, 2018 by a forbearance amending agreement, as requested by Hatsize and agreed to by BMO (the “**Forbearance Amending Agreement**”). The Forbearance Amending Agreement also provided that Hatsize would deliver to BMO a plan to restructure its business and financial affairs in a form that is satisfactory to BMO, and repay the Indebtedness to BMO by no later than July 27, 2018. The Forbearance Amending Agreement did not amend any other terms of the Forbearance Agreement.

16. To date:
- (a) Hatsize has been unable to restore its financial condition or comply with its obligations under the Loan Agreements;
 - (b) The Forbearance Period has expired and Hatsize has not cured the Existing Defaults; and
 - (c) Hatsize has not made payment to BMO of the amounts owing under the Loan Agreements.
17. Hatsize has no prospect of either repaying or refinancing the Indebtedness and there is no realistic possibility that Hatsize will be able to restructure or reorganize in a manner that would make it financially viable. Further, Hatsize has no access to liquidity and is therefore unable to continue as a viable businesses, which creates significant risk to BMO's security position and materially prejudices BMO and other creditors of Hatsize.

Appointment of Receiver

18. The appointment of Deloitte Restructuring Inc. ("**Deloitte**") as receiver and manager, or alternatively, as receiver, over the assets, undertakings and property (the "**Property**") of Hatsize is just, equitable, convenient and necessary to preserve BMO's security. Further, a receiver would provide stability to the situation and would secure Hatsize's equipment and assets in order to permit them to be sold and realized upon in an orderly manner.
19. Deloitte has consented to act as receiver and manager, or alternatively, as receiver, over the Property.
20. Such further and other grounds as counsel may advise and this Honourable Court may permit.

Remedy sought:

21. An Order:

- (a) Abridging, if necessary, the time for service of this application and deeming service good and sufficient;
- (b) Appointing Deloitte Restructuring Inc. as receiver and manager, or alternatively, receiver, over the assets, undertakings and property of Hatsize by way of an order in substantially the form of the Receivership Order attached as Schedule "A";
- (c) Awarding costs of this application to BMO on a solicitor and his own client, full indemnity basis;
- (d) In the alternative, granting costs to BMO on a multiple of Schedule "C" of the *Alberta Rules of Court*; and
- (e) Such further and other relief as counsel may advise and this Honourable Court deems just.

Affidavit or other evidence to be used in support of this application:

- 22. Affidavit of Trevor Bauer, sworn July 25, 2018, filed;
- 23. The inherent jurisdiction of this Honourable Court; and
- 24. Such further and other material and evidence as counsel may advise and this Honourable Court may permit.

Applicable Acts and regulations:

- 25. Rules 1.3, 1.4, 6.3, 6.9(1)(a), 6.47, 11.27 and 13.5(2) of the *Alberta Rules of Court*;
- 26. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3, as amended, and particularly s. 243 thereof, *Judicature Act*, RSA 2000, c J-2, as amended, and particularly s. 13(2) thereof, and *Personal Property Security Act*, RSA 2000, c P-7, as amended, and particularly s. 65(7) thereof; and
- 27. Such other Rules, Acts and Regulations as counsel may advise and that this Honourable Court may permit.

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant and against all persons claiming under the applicant. You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant is entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to give evidence in response to the application, you must reply by filing an affidavit or other evidence with the Court and serving a copy of that affidavit or other evidence on the applicant a reasonable time before the application is to be heard or considered.

Schedule "A"

COURT FILE NUMBER: 1801-
COURT: COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE: CALGARY

IN THE MATTER OF AN APPLICATION UNDER SECTION
243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, RSC
1985, c. B-3, AS AMENDED

APPLICANT: BANK OF MONTREAL
RESPONDENT: HATSIZE LEARNING CORPORATION
DOCUMENT: CONSENT RECEIVERSHIP ORDER

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
Gowling WLG (Canada) LLP
1600, 421 – 7th Avenue S.W.
Calgary, AB T2P 4K9
Telephone (403) 298-1938
Facsimile (403) 695-3538
File No. A158943

Attention: Tom Cumming

DATE ON WHICH ORDER WAS PRONOUNCED: August 3, 2018

NAME OF JUDGE WHO MADE THIS ORDER: The Honourable Madam. Justice K.M. Eidsvik

LOCATION OF HEARING: Calgary, Alberta

UPON the application of Bank of Montreal (the "**Lender**") in respect of Hatsize Learning Corporation (the "**Debtor**"); **AND UPON** having read the Application, the Affidavit of Trevor Bauer, sworn July 25, 2018, filed; and the Affidavit of Service of Ingrid Fitzner, sworn _____, 2018, filed; **AND UPON** reading the consent of Deloitte Restructuring Inc. ("**Deloitte**") to act as receiver and manager (the "**Receiver**") of the Property (as defined below) of the Debtor, filed; **AND UPON** noting the consent endorsed hereon of the Debtor; **AND**

UPON hearing counsel for the Lender, the Receiver and the Debtor; **IT IS HEREBY ORDERED AND DECLARED THAT:**

SERVICE

1. The time for service of the notice of application for this order is hereby abridged and service thereof is deemed good and sufficient.

APPOINTMENT

2. Pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 (“**BIA**”), Deloitte is hereby appointed Receiver, without security, of all of the Debtor's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof (the “**Property**”).

RECEIVER'S POWERS

3. The Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:
 - (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
 - (b) to receive, preserve and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
 - (c) to manage, operate and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part other business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to or by the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of the Debtor;
- (j) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding, and provided further that nothing in this Order shall authorize the Receiver to defend or settle the action in which this Order is made unless otherwise directed by this Court.
- (k) to market any or all the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- (i) without the approval of this Court in respect of any transaction not exceeding \$25,000.00 provided that the aggregate consideration for all such transactions does not exceed \$200,000.00; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 60(8) of the *Personal Property Security Act*, R.S.A. 2000, c. P-7 shall not be required;

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

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

4. (i) The Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being “**Persons**” and each being a “**Person**”) shall forthwith advise the Receiver of the existence of any Property in such Person’s possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property (excluding Property subject to liens the validity of which is dependant on maintaining possession) to the Receiver upon the Receiver’s request.
5. All Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or documents prepared in contemplation of litigation or due to statutory provisions prohibiting such disclosure.
6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons

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

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. No Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court, provided, however, that nothing in this Order shall: (i) prevent any Person from commencing a proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such proceeding is not commenced before the expiration of the stay provided by this paragraph 8; and (ii) affect a Regulatory Body’s investigation in respect of the debtor or an action, suit or proceeding that is taken in respect of the debtor by or before the Regulatory Body, other than the enforcement of a payment order by the Regulatory Body or the Court. “**Regulatory Body**” means a person or body that has

powers, duties or functions relating to the enforcement or administration of an Act of Parliament or of the legislature of a province.

NO EXERCISE OF RIGHTS OF REMEDIES

9. All rights and remedies (including, without limitation, set-off rights) against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

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

upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

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

EMPLOYEES

13. Subject to employees’ rights to terminate their employment, all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor’s behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*, S.C. 2005, c.47 (“**WEPPA**”).
14. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if

it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

15. (a) Notwithstanding anything in any federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arose or environmental damage that occurred:
- (i) before the Receiver's appointment; or
 - (ii) after the Receiver's appointment unless it is established that the condition arose or the damage occurred as a result of the Receiver's gross negligence or wilful misconduct.
- (b) Nothing in sub-paragraph **Error! Reference source not found.** exempts a Receiver from any duty to report or make disclosure imposed by a law referred to in that sub-paragraph.
- (c) Notwithstanding anything in any federal or provincial law, but subject to sub-paragraph **Error! Reference source not found.** hereof, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, the Receiver is not personally liable for failure to comply with the order, and is not personally liable for any costs that are or would be incurred by any person in carrying out the terms of the order,
- (i) if, within such time as is specified in the order, within 10 days after the order is made if no time is so specified, within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is

appointed, or during the period of the stay referred to in clause (ii) below, the Receiver:

- A. complies with the order, or
 - B. on notice to the person who issued the order, abandons, disposes of or otherwise releases any interest in any real property affected by the condition or damage;
- (ii) during the period of a stay of the order granted, on application made within the time specified in the order referred to in clause (i) above, within 10 days after the order is made or within 10 days after the appointment of the Receiver, if the order is in effect when the Receiver is appointed, by,
- A. the court or body having jurisdiction under the law pursuant to which the order was made to enable the Receiver to contest the order; or
 - B. the court having jurisdiction in bankruptcy for the purposes of assessing the economic viability of complying with the order; or
- (iii) if the Receiver had, before the order was made, abandoned or renounced or been divested of any interest in any real property affected by the condition or damage.

LIMITATION ON THE RECEIVER'S LIABILITY

16. Except for gross negligence or wilful misconduct, as a result of its appointment or carrying out the provisions of this Order the Receiver shall incur no liability or obligation that exceeds an amount for which it may obtain full indemnity from the Property. Nothing in this Order shall derogate from any limitation on liability or other protection afforded to the Receiver under any applicable law, including, without limitation, Section 14.06, 81.4(5) or 81.6(3) of the BIA.

RECEIVER'S ACCOUNTS

17. The Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case, incurred at their standard rates and charges. The Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, incurred both before and after the making of this Order in respect of these proceedings, and the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person but subject to section 14.06(7), 81.4(4) and 81.6(2) of the BIA.
18. The Receiver and its legal counsel shall pass their accounts from time to time.
19. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including the legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

FUNDING OF THE RECEIVERSHIP

20. The Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$150,000.00 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority

to the Receiver's Charge and the charges set out in sections 14.06(7), 81.4(4) and 81.6(2) of the BIA.

21. Neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
22. The Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "**Receiver's Certificates**") for any amount borrowed by it pursuant to this Order.
23. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

ALLOCATION

24. Any interested party may apply to this Court on notice to any other party likely to be affected, for an order allocating the Receiver's Charge and Receiver's Borrowings Charge amongst the various assets comprising the Property.

GENERAL

25. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
26. Notwithstanding Rule 6.11 of the *Alberta Rules of Court*, unless otherwise ordered by this Court, the Receiver will report to the Court from time to time, which reporting is not required to be in affidavit form and shall be considered by this Court as evidence.
27. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

28. This Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.
29. The Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
30. The Plaintiff shall have its costs of this motion, up to and including entry and service of this Order, provided for by the terms of the Plaintiff's security or, if not so provided by the Plaintiff's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.
31. Any interested party may apply to this Court to vary or amend this Order on not less than 7 days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

FILING

32. This Order is issued and shall be filed in Court of Queen's Bench Action No. _____.
33. The Receiver shall establish and maintain a website in respect of these proceedings at www._____ and shall post there as soon as practicable:
 - (a) all materials prescribed by statute or regulation to be made publically available;and

- (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, or served upon it, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.

Justice of the Court of Queen's Bench of Alberta

CONSENTED TO this 12th day of July, 2018.

FIRM NAME: DLA Piper (Canada) LLP

Name: Carole J. Hunter
Counsel for Hatsize Learning Corporation

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Deloitte Restructuring Inc., the receiver and manager (the "Receiver") of all of the assets, undertakings and properties of Hatsize Learning Corporation appointed by Order of the Court of Queen's Bench of Alberta and Court of Queen's Bench of Alberta in Bankruptcy and Insolvency (collectively, the "Court") dated the _____ day of _____, _____ (the "Order") made in action numbers _____, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily] [monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at ●.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property) as authorized by the Order and as authorized by any further or other order of the Court.

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

DATED the _____ day of _____, 20__.

Deloitte Restructuring Inc., solely in its capacity as Receiver of the Property (as defined in the Order), and not in its personal capacity

Per: _____
Name:
Title: