

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

IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.

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**MOTION RECORD OF THE RECEIVER  
(Distribution, Discharge and Ancillary Relief)**

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Lawyers for Richter Advisory Group Inc., in its  
capacity as the Court appointed Receiver of  
Elementa Group Inc.

**TO: THE SERVICE LIST**

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**TAB 1**

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

IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.

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**NOTICE OF MOTION**

---

RICHTER ADVISORY GROUP INC. (“**Richter**”) in its capacity as the Court-appointed Receiver (in such capacity, the “**Receiver**”), without security, of all the assets, undertakings and properties (collectively, the “**Property**”) of Elementa Group Inc. (“**Elementa**”) will make a Motion to a Judge of the Commercial List, on Tuesday June 7, 2016 at 10:00 a.m. or soon after that time as the motion can be heard, at 330 University Avenue, 8th Floor, Toronto, Ontario.

**THE PROPOSED METHOD OF HEARING:** The motion is to be heard:

- in writing under subrule 37.12.1(1) because it is made without notice;
- in writing as an opposed motion under subrule 37.12.1(4); or
- orally.

**THE MOTION IS FOR:**

1. If necessary, an Order abridging the time for service of the Receiver's notice of motion and motion record and validating the service of such motion materials;
2. An Order in the form attached as **Schedule "A"**:
  - a. approving the First to Fifth Reports of the Receiver and the activities of Richter and the Receiver set out therein;
  - b. approving the accounts of Richter and the Receiver and its counsel, including the Remaining Fees and Disbursements, as defined in the Fifth Report;
  - c. authorizing the Receiver to pay the Accrued Obligations and the Remaining Fees and Disbursements, as defined in the Fifth Report (collectively, the "**Outstanding Disbursements**") from the available cash on hand remaining with the Receiver, and any subsequent cash receipts, without further approval of this Court;
  - d. authorizing and directing the Receiver to make an interim distribution to Bennett Jones LLP ("**Bennett Jones**") in respect of its secured claim against the Property in the amount of approximately \$850,000;
  - e. authorizing the Receiver to make subsequent distributions to Bennett Jones as it in its sole discretion considers appropriate, subject to retaining sufficient disbursements to satisfy the Outstanding Disbursements and complete the administration of the receivership proceedings;
  - f. authorizing and directing the Receiver to assign its interest in and to the Promissory Note, as defined in the Fifth Report, to Bennett Jones in respect of its secured claim against the Property;

- g. in the event that the motion brought by Bennett Jones to authorize the Receiver to make an assignment in bankruptcy for and on behalf of Elementa naming Richter as trustee of Elementa's bankrupt estate (the "**Trustee**") is granted, an Order authorizing the Receiver to transfer to the Trustee the amount of \$25,000 plus HST for Elementa's bankruptcy estate (the "**Administration Deposit**"), to provide the necessary funding for the respective professional and other costs incurred by the Trustee in its administration of Elementa's bankruptcy proceedings and directing the Trustee to pay any surplus amounts to Bennett Jones; and
  - h. discharging the Receiver upon completion of the Remaining Matters, as defined in the Fifth Report, subject to the Receiver filing a certificate evidencing the same with the Court, and releasing the Receiver from any liability arising as a result of the Receiver's actions while Receiver, save and except for any gross negligence or willful misconduct on the part of the Receiver.
3. Such further and other relief as this Honourable Court may deem just.

**THE GROUNDS FOR THE MOTION ARE:**

**Approval of Richter and the Receiver's Activities and the Accounts of the Receiver and its Counsel**

1. The Receiver has reported on its activities since its appointment on December 21, 2015 to May 31, 2016 in the Receiver's First, Second, Third, Fourth and Fifth Reports. In its First

Report, the Receiver has also reported on Richter's activities as interim custodian of certain of Elementa's property between November 30, 2015 and December 21, 2015;

2. Richter, the Receiver and its counsel Goldman Sloan Nash & Haber LLP ("GSNH") have provided the usual form of affidavit material, including accounts and summaries, for the fees that they have incurred between November 30, 2015 and May 27, 2016;

### **Payment of the Outstanding Disbursements**

3. In its Fifth Report, the Receiver summarized its statement of receipts and disbursements from the date of its appointment to May 24, 2016, and estimated the amount of accrued obligations relating to professional fees up to May 27, 2016 and the remaining fees and disbursements to be accrued, exclusive of HST;
4. The Receiver seeks the authority to pay the Outstanding Disbursements from cash on hand without further Order of this Court;

### **Proposed Distribution to Bennett Jones**

5. Bennett Jones is the senior ranking secured creditor of Elementa and as at November 18, 2015, was owed \$2,922,329 by Elementa in respect of legal fees, disbursements, interest and taxes;
6. On application by Bennett Jones, the Receiver was appointed by Order of the Honourable Mr. Justice Hailey issued December 21, 2015 (the "**Appointment Order**");
7. On February 12, 2016, the Receiver and Bradam Canada Inc. (the "**Purchaser**") entered into an Agreement of Purchase and Sale for the Property (the "**Stalking Horse APS**") for an aggregate purchase price of \$1,500,000 (the "**Purchase Price**"), payable in cash;

8. By Order dated February 18, 2016, the Honourable Madam Justice Conway approved the Stalking Horse APS and related sales process and bidding procedures to sell the Property and on April 15, 2016, the Honourable Madam Justice Swinton granted an Order designating the Stalking Horse APS as the winning bid under the sales process and authorizing the Receiver to vest the Property in the Purchaser, free and clear of all liens, charges, interests and encumbrances of any nature and kind (the “**Approval and Vesting Order**”);
9. The Purchaser was not able to raise a portion of the cash necessary to satisfy the Purchase Price, and on May 13, 2016, the Honourable Mr. Justice Newbould granted an Order amending and restating the Approval and Vesting Order to permit the Receiver to accept a secured, interest-bearing promissory note in the principal amount of \$275,000, representing the remaining portion of the Purchase Price, payable within 90 days of the closing of the Stalking Horse APS, and authorizing the Receiver to assign the Promissory Note to its chosen assignee pursuant to a distribution order of the Court;
10. The Stalking Horse APS closed on May 16, 2016;
11. The Receiver’s counsel has provided a favourable opinion with respect to the validity of the security held by Bennett Jones;
12. The recoveries from the Stalking Horse APS are insufficient to pay out Elementa’s indebtedness to Bennett Jones in full, and there will be no funds available for distribution to any of Elementa’s other secured creditors;
13. The Receiver requests that this Honourable Court authorize such distributions to Bennett Jones as the Receiver deems appropriate, subject to the Receiver maintaining sufficient

reserves in order to satisfy the Outstanding Disbursements and complete the administration of Elementa's receivership proceedings;

### **Elementa's Assignment into Bankruptcy**

14. The receivership proceedings have facilitated an orderly sale of substantially all of Elementa's business and assets;
15. In addition to the amounts owed to Bennett Jones and Elementa's other secured creditors, Elementa's books and records indicate that it has accrued and unpaid unsecured obligations totalling approximately \$7 million. Subsequent to the closing of the Stalking Horse APS and the eventual termination of these receivership proceedings, Elementa will have no material assets with which to pay its remaining obligations;
16. Bennett Jones has filed a motion to be heard contemporaneously with the Receiver's within motion seeking authorization for the Receiver to assign Elementa into bankruptcy in order to provide finality to the proceeding as it relates to unsecured creditors;
17. Should the Court grant Bennett Jones' motion, Richter has agreed to act as trustee in bankruptcy provided that it receives funding, as there are no material assets remaining in the estate;
18. Bennett Jones has agreed, in order to fund the bankruptcy, to the transfer of \$25,000 plus HST from the proceeds of the Stalking Horse APS eligible to be distributed to Bennett Jones by the Receiver to the Trustee to fund the bankruptcy administration process;

## **The Discharge of the Receiver**

19. If this Court grants the Order requested herein, the Receiver will have completed its duties, statutory or otherwise, except for certain Remaining Matters detailed in the Fifth Report;
20. Upon the completion of the Remaining Matters, the Receiver will have realized on the Property and completed its statutory duties as well as those duties set out in the Appointment Order or subsequent orders of this Court. Accordingly, the Receiver is of the view that it is appropriate to seek an order of the Court discharging the Receiver upon the filing of a certificate with this Court certifying that all of the Remaining Matters have been completed;
21. Rules 1.04, 2.01, 3.02, and 37 of the *Rules of Civil Procedure*; and such further and other grounds as counsel may advise and this Honourable Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

1. The Fifth Report of Richter Advisory Group Inc. as Receiver;
2. The fee affidavit of Mario Forte sworn May 26, 2016, and the exhibits thereto, attached as an appendix to the Fifth Report;
3. The fee affidavit of Adam Sherman sworn May 31, 2016, and exhibits thereto attached as an appendix to the Fifth Report; and
4. Such further and other documentary evidence as counsel may advise and this Honourable Court may accept.



**DATE:** May 31, 2016

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Lawyers for Richter Advisory Group Inc., in its capacity as the Court appointed Receiver of Elementa Group Inc.

**TO: THE SERVICE LIST**

**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

Commercial List File No. CV-15-11198-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto**

**NOTICE OF MOTION**

**GOLDMAN SLOAN NASH & HABER LLP**

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Lawyers for Richter Advisory Group Inc., in its capacity as  
the Court appointed Receiver of Elementa Group Inc.

SCHEDULE "A"

Court File No. CV-15-11198-00CL

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

THE HONOURABLE ) TUESDAY, THE 7<sup>TH</sup>  
 )  
JUSTICE ) DAY OF JUNE, 2016  
 )

B E T W E E N:

**BENNETT JONTES LLP**

Applicant

- and -

**ELEMENTA GROUP INC.**

Respondent

**ORDER**  
**(For Distribution, Discharge and Ancillary Relief)**

THIS MOTION, made by Richter Advisory Group Inc. ("Richter") in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets (the "Property") of Elementa Group Inc. ("Elementa") for an order:

1. approving the First, Second, Third, Fourth and Fifth Reports of the Receiver (the "Reports") and the activities of Richter and the Receiver set out therein;
2. approving the fees and disbursements of Richter and the Receiver and its counsel and authorizing the Receiver to pay the Accrued Obligations and Remaining Fees and Disbursements, as defined in the Fifth Report of the Receiver (the "Fifth Report"), from the available cash on hand remaining with the Receiver and any subsequent cash receipts;

3. authorizing and directing the Receiver to make an interim distribution to Bennett Jones LLP (“Bennett Jones”) in respect of its secured claim against the Property in the amount of approximately \$850,000;
4. authorizing the Receiver to make subsequent distributions to Bennett Jones as it in its sole discretion considers appropriate, subject to retaining sufficient disbursements to satisfy the Outstanding Disbursements and complete the administration of the receivership proceedings;
5. authorizing and directing the Receiver to assign its interest in and to the Promissory Note, as defined in the Fifth Report, to Bennett Jones in respect of its secured claim against the Property;
6. should Bennett Jones’ motion to authorize the Receiver to make an assignment in bankruptcy for and on behalf of Elementa naming Richter as trustee of Elementa’s bankrupt estate (the “Trustee”) be granted, authorizing the Receiver to transfer to the Trustee the amount of \$25,000 plus HST for Elementa’s bankruptcy estate (the “Administration Deposit”), to provide the necessary funding for the respective professional and other costs incurred by the Trustee in its administration of Elementa’s bankruptcy proceedings and directing the Trustee to pay any surplus amounts to Bennett Jones;
7. discharging Richter as Receiver of the undertaking, property and assets of Elementa; and
8. releasing the Receiver from any and all liability, as set out in paragraph 9 of this Order,

was heard on this day at 330 University Avenue, Toronto, Ontario.

ON READING the Fifth Report, the affidavits of the Receiver and its counsel as to fees (the “Fee Affidavits”), the affidavit of Eden M. Oliver sworn May 20, 2016, and on hearing the submissions of counsel for the Receiver and counsel for Bennett Jones, no one else appearing although served as evidenced by the Affidavit of Sanja Sopic sworn May 31, 2016, filed;

1. THIS COURT ORDERS that the activities of Richter and the Receiver, as set out in the Reports, are hereby approved.

2. THIS COURT ORDERS that the fees and disbursements of Richter and the Receiver and its counsel, as set out in the Fifth Report and the Fee Affidavits, are hereby approved.

3. THIS COURT ORDERS that, after payment of the fees and disbursements herein approved, and the Accrued Obligations and Remaining Fees and Disbursements, as defined in the Fifth Report, and subject to the Receiver maintaining a holdback to satisfy the Outstanding Disbursements and complete the administration of the receivership proceedings, as described in the Fifth Report (the "Holdback"), the Receiver shall pay the sum of \$850,000 to Bennett Jones, Elementa's senior ranking secured creditor, in partial satisfaction of its secured claim against the Property.

4. THIS COURT ORDERS that the Receiver is authorized, without further order of this Court, to make subsequent distributions to Bennett Jones as it in its sole discretion considers appropriate, subject to retaining the Holdback.

5. THIS COURT ORDERS that the Receiver is hereby authorized and directed to assign its interest in and to the Promissory Note, as defined in the Fifth Report, to Bennett Jones in respect of its secured claim against the Property;

6. THIS COURT ORDERS that the Receiver is hereby authorized and directed to transfer to the Trustee the Administration Deposit to provide the necessary funding for the respective professional and other costs incurred by the Trustee in its administration of Elementa's bankruptcy proceedings and authorizes and directs the Trustee to pay any surplus amounts to Bennett Jones.

7. THIS COURT ORDERS that upon payment of the amounts set out in Paragraphs 3, 4 and 6 hereof and upon the Receiver filing a certificate in the form set out as Schedule "A" hereto certifying that it has completed the other activities described in the Fifth Report, the Receiver shall be discharged as Receiver of the undertaking, property and assets of Elementa, provided however that notwithstanding its discharge herein, (a) the Receiver shall remain Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein, and (b) the Receiver shall continue to have the benefit of the provisions of all Orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of Richter in its capacity as Receiver.

8. THIS COURT ORDERS AND DECLARES that Richter is hereby released and discharged from any and all liability that Richter now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Richter while acting in its capacity as Receiver herein, save and except for any gross negligence or wilful misconduct on the Receiver's part. Without limiting the generality of the foregoing, Richter is hereby forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in the within receivership proceedings, save and except for any gross negligence or wilful misconduct on the Receiver's part.

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SCHEDULE "A"

Court File No. CV-15-11198-00CL

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

BETWEEN:

**BENNETT JONTES LLP**

Applicant

- and -

**ELEMENTA GROUP INC.**

Respondent

**DISCHARGE CERTIFICATE**

**RECITALS**

The undersigned, Richter Advisory Group Inc., in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of Elementa Group Inc. ("Elementa"), hereby certifies, for the purposes of the Order of Justice dated the 7<sup>th</sup> day of June, 2016 (the "Order"), that:

1. The distribution of funds as contemplated in Paragraph 4, 3 and 6 of the Order has been completed.
2. The administration of the receivership of the assets, property and undertaking of Elementa and remaining receivership activities as described in the Fifth Report of the Receiver dated May 31, 2016 have been completed.

3. The payment of fees and disbursements of the Receiver and of its legal counsel as approved by the Order has been completed.

DATED at Toronto, Ontario this \_\_\_\_ day of \_\_\_\_\_, 2016.

**RICHTER ADVISORY GROUP INC., in its  
capacity as the court appointed Receiver of  
the undertaking, property and assets of  
Elementa Group Inc., and not in its personal  
capacity**

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

Name:

Title:



**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

Commercial List File No. CV-15-11198-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto**

**ORDER  
(Distribution, Discharge and Ancillary Relief)**

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Lawyers for Richter Advisory Group Inc., in its capacity as  
the Court appointed Receiver of Elementa Group Inc.

TAB 2

**RICHTER**

Richter Advisory Group Inc.  
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Toronto, ON M5J 2T3  
[www.richter.ca](http://www.richter.ca)

**ELEMENTA GROUP INC.**

**FIFTH REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS RECEIVER OF  
ELEMENTA GROUP INC.**

**MAY 31, 2016**

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

**IN THE MATTER OF THE RECEIVERSHIP OF THE ELEMENTA GROUP INC.**

**FIFTH REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF THE  
PROPERTIES, ASSETS AND UNDERTAKING OF  
ELEMENTA GROUP INC.**

**MAY 31, 2016**

## Introduction

1. On November 30, 2015, the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), issued an interim order (the “**Interim Order**”) authorizing Richter Advisory Group Inc. (“**Richter**”) to take possession of Elementa Group Inc.’s (“**Elementa**” or the “**Company**”) computer server and certain boxes containing notes and other records referable to the data on the server, on an interim basis, as interim custodian pending the return of the application by Bennett Jones LLP (“**Bennett Jones**”) for the appointment of a receiver over the property, assets and undertakings of Elementa. A copy of the Interim Order is attached hereto as **Appendix “A”**.
  
2. On December 21, 2015, (the “**Date of Appointment**”), the Court issued an order (the “**Appointment Order**”) appointing Richter as receiver (the “**Receiver**”) pursuant to section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended, (the “**BIA**”) and section 101 of the *Courts of Justice Act* R.S.O. 1990 c. 43, as amended, without security, of all of the properties, assets and undertakings (the “**Property**”) of Elementa. A copy of the Appointment Order is attached hereto as **Appendix “B”**.
  
3. On February 19, 2016, the Court issued an order (the “**Sales Process Order**”):
  - (a) authorizing and directing the Receiver to enter into an agreement dated February 12, 2016 (the “**Stalking Horse APS**”) with Bradam Canada Inc. (“**Bradam**” or the “**Purchaser**”) for the sale of substantially all of the Property (the “**Stalking Horse Assets**”). The Stalking Horse APS set the minimum floor price in respect of a competitive sales process for the Stalking Horse Assets; and
  
  - (b) approving the proposed sales process (the “**Stalking Horse Sales Process**”), including the bidding procedures (the “**Bidding Procedures**”) to be undertaken by the Receiver to solicit bids for the Stalking Horse Assets, and authorizing and directing the Receiver to conduct the Stalking Horse Sales Process.

A copy of the Sales Process Order is attached hereto as **Appendix “C”**.

4. On April 5, 2016, the Court issued an order (the “**April 5 Order**”) in connection with Receiver’s motion for advice and directions as to the nature and effect of a certain agreement among Elementa, Mr. Andrew Ferri, Northguard Capital Corp. and Elementa SSM Inc. (“**Elementa SSM**”) dated April 30, 2013, which by its terms purported to, among other things, effect a sale of a substantial portion of the Property to Elementa SSM (the “**April 2013 Agreement**”). The April 5 Order declared, among other things, that the April 2013 Agreement is an agreement that is subject to the provisions of the *Personal Property Security Act* (Ontario) (the “**PPSA**”) and that the Property may be vested free and clear of the interests, of any nature and kind, created by the April 2013 Agreement. A copy of the April 5 Order is attached hereto as **Appendix “D”**.
5. On April 15, 2016, the Court issued an order (the “**Approval and Vesting Order**”) approving the designation of the Stalking Horse APS as the “Winning Bid” pursuant to the Sales Process Order, approving the sale transaction (the “**Transaction**”) between the Receiver and Bradam Canada Inc. (“**Bradam**” or the “**Purchaser**”), and vesting, upon closing of the Transaction, the Company’s right, title and interest in and to the Stalking Horse Assets (now the “**Purchased Assets**”) in the Purchaser, free and clear of all liens, charges, security interests and other encumbrances. A copy of the Approval and Vesting Order is attached hereto as **Appendix “E”**.
6. Due to the inability of the Purchaser to secure all of the funds to pay the purchase price, the Purchaser requested that it be provided with an additional ninety (90) days following the closing of the Transaction to pay the remaining balance of the purchase price totalling \$275,000. On May 13, 2016, the Court issued an order (the “**Amended Approval and Vesting Order**”) that, among other things, permitted the Receiver to accept an interest bearing, secured promissory note in the amount of \$275,000 (the “**Promissory Note**”) in partial payment of the purchase price. A copy of the Amended Approval and Vesting Order is attached hereto as **Appendix “F”**.
7. On May 20, 2016, Bennett Jones filed a motion with the Court seeking an order that Elementa be adjudged bankrupt and that the Receiver be authorized to file an assignment in bankruptcy on behalf of Elementa (the “**Bankruptcy Motion**”). The Bankruptcy Motion will be heard contemporaneously with the Receiver’s motion returnable June 7, 2016.

8. This report is the Receiver's fifth report (the "**Fifth Report**") to the Court. The Receiver's first report dated February 16, 2016 (the "**First Report**") outlined certain background information about Elementa, the activities of Richter and the Receiver subsequent to the granting of the Interim Order and the Appointment Order, respectively, and provided an overview of the terms of the Stalking Horse APS and the Stalking Horse Sales Process. The Receiver's second report dated March 21, 2016 (the "**Second Report**") provided background information in respect of the Receiver's motion for advice and directions regarding the nature and effect of the April 2013 Agreement. The Receiver's third report dated April 8, 2016 (the "**Third Report**") outlined the activities of the Receiver since the First Report, the results of the Stalking Horse Sales Process, and the Transaction. The Receiver's fourth report dated May 5, 2016 (the "**Fourth Report**") provided information in connection with the Receiver's request to accept the Promissory Note as partial payment of the purchase price for the Purchased Assets. Copies of the First Report, the Second Report, Third Report and Fourth Report, without appendices, are attached hereto as **Appendix "G"**, **Appendix "H"**, **Appendix "I"** and **Appendix "J"**, respectively.

#### **Purpose of this Report**

9. The purpose of this Fifth Report is to provide information to this Court in respect of the following:
- (a) the completion of the Transaction;
  - (b) the activities of the Receiver since the Third Report;
  - (c) the Receiver's statement of receipts and disbursements from the Date of Appointment to May 24, 2016;
  - (d) the Receiver's review of the validity and enforceability of Bennett Jones' security in respect of the Property and the opinion thereon of the Receiver's independent legal counsel, Goldman Sloan Nash & Haber LLP ("**GSNH**");
  - (e) the Receiver's estimate of accrued and unpaid obligations as of the date of this Fifth Report (the "**Accrued Obligations**") and the Receiver's estimate of professional fees and disbursements, including those of its counsel, required to complete the administration of these receivership proceedings (the "**Remaining Fees and Disbursements**"); and



- (f) to seek an order(s) of the Court:
- (i) approving the First Report, the Second Report, the Third Report, the Fourth Report and the Fifth Report, including the actions and activities of Richter and/or the Receiver set out therein;
  - (ii) approving the Receivers' statement of receipts and disbursements from the Date of Appointment to May 24, 2016;
  - (iii) authorizing and directing the Receiver to make an interim distribution to Bennett Jones in respect of its secured claim against the Property in the amount of \$850,000;
  - (iv) authorizing the Receiver to make such subsequent distributions to Bennett Jones as the Receiver, in its sole discretion, determines appropriate, subject to the Receiver maintaining sufficient reserves to satisfy the Outstanding Disbursements (as hereinafter defined) and complete the administration of the receivership proceedings;
  - (v) authorizing the Receiver to pay the Accrued Obligations and the Remaining Fees and Disbursements (collectively, the "**Outstanding Disbursements**") from the available cash on hand remaining with the Receiver, and any subsequent cash receipts, without further approval of this Court;
  - (vi) approving the accounts of the Receiver and its counsel, including the Remaining Fees and Disbursements, as set out in this Fifth Report;
  - (vii) authorizing and directing the Receiver to assign its interest in and to the Promissory Note to Bennett Jones in respect of its secured claim against the Property;
  - (viii) authorizing the Receiver, should the Court grant the Bankruptcy Motion, to make an assignment in bankruptcy for and on behalf of the Company naming Richter as trustee of Elementa's bankrupt estate (the "**Trustee**") and to execute any and all necessary documents to effect such assignment in bankruptcy;

- (ix) authorizing the Receiver, should the Court grant the Bankruptcy Motion, to transfer to the Trustee, the amount of \$25,000 (plus HST) for Elementa's bankruptcy estate (the "**Administration Deposit**"), to provide the necessary funding for the respective professional and other costs incurred by the Trustee in its administration of Elementa's bankruptcy proceedings and directing the Trustee to pay any surplus amounts to Bennett Jones;
- (x) discharging the Receiver upon completion of the Remaining Matters (as hereinafter defined), subject to the Receiver filing a certificate evidencing the same with the Court; and
- (xi) ordering and declaring that, effective upon its discharge as Receiver, Richter is released and discharged from any and all liability that Richter now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Richter while acting in its capacity as Receiver, save and except for any gross negligence or wilful misconduct on the part of Richter.

#### **Terms of Reference**

10. In preparing this Fifth Report, the Receiver has relied upon unaudited financial and other information previously prepared by the Company and/or its representatives as well as other information supplied by Bennett Jones, the Company's former management and others (collectively, the "**Information**"). The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided and in consideration of the nature of evidence provided to this Court, in relation to the relief being sought herein. The Receiver has not, however, audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the Canadian Institute of Chartered Accountants Handbook and, as such, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
11. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

## The Transaction

12. As noted above, on February 19, 2016, the Court approved the Stalking Horse Sales Process and Bidding Procedures, which provided a benchmark for the Purchased Assets as well as a forum and deadline to both permit and encourage any serious alternative bidders to come forward with firm purchase offers.
13. As the Stalking Horse Sales Process did not result in any superior offers prior to the bid deadline, on April 15, 2016, the Court approved the designation of the Stalking Horse APS as the "Winning Bid" pursuant to the Sales Process Order and authorized the Receiver to complete the Transaction for cash consideration of \$1,500,000.
14. The Receiver, however, was not able to complete the Transaction authorized by the Approval and Vesting Order, as the Purchaser was unable to raise a portion of the cash (\$275,000) necessary to satisfy the purchase price.
15. As noted in paragraph 6 above, the Amended Approval and Vesting Order authorized the Receiver to accept the Promissory Note in partial payment of the purchase price. Upon receipt of the Promissory Note, the Receiver was to deliver the Receiver's Certificate (as defined in the Amended Approval and Vesting Order) to the Purchaser, which signified the closing of the Transaction and the vesting of all of Elementa's right, title and interest in and to the Purchased Assets in the Purchaser free and clear of all liens, security interests, charges and other encumbrances other than the charge created by the Promissory Note.
16. The Transaction was completed on May 16, 2016 (the "**Closing Date**") and the Receiver's Certificate was delivered to the Purchaser and filed with the Court on that date.
17. Prior to Closing, the Purchaser provided written notice to the Receiver that it had elected to exclude all contracts from the Purchased Assets, including but not limited to, the Assumed Contracts as defined in the Stalking Horse APS.
18. The total cash proceeds received by the Receiver from the Transaction was \$1,225,000, including the \$150,000 deposit paid by Bradam on February 17, 2016. The Receiver also collected \$130 in HST as part of the Transaction proceeds, which amount represents the HST exigible on the equipment that formed part of the Purchased Assets (based on the Purchaser's allocation of the purchase price).

19. As contemplated by the Approval and Vesting Order, the Receiver filed articles of amendment (the “**Articles**”) changing the name of the Company from Elementa to 2021929 Ontario Inc. on May 17, 2016. A copy of the Articles certifying the name change is attached hereto as **Appendix “K”**.

#### **Activities of the Receiver**

20. The activities of Richter and/or the Receiver from the date of the Interim Order to April 8, 2016 are detailed in the First Report and the Third Report (see Appendix “G” and Appendix “I”). Subsequent to the filing of the Third Report, the Receiver’s activities have included:
  - (a) communicating with representatives of the Independent Electricity System Operator (formerly the Ontario Power Authority) regarding the energy-from-waste contract entered into with Elementa Algoma LP, and other matters in connection with Elementa and the receivership proceedings;
  - (b) communicating with counsel for 2124732 Ontario Inc. regarding the real property lease entered into with Elementa Algoma LP in connection with the Company’s project in Sault Ste. Marie, Ontario;
  - (c) attending before this Court in respect of the Receiver’s motions for both the Approval and Vesting Order and the Amended Approval and Vesting Order;
  - (d) communicating extensively with the Receiver’s counsel, GSNH, regarding its review of Bennett Jones’ security, the closing of the Transaction and other matters in connection with Elementa and the receivership proceedings;
  - (e) communicating with Bradam and its counsel in connection with the closing of the Transaction;
  - (f) reviewing and commenting on documents and agreements pertaining to the Transaction;
  - (g) facilitating completion of the Transaction, including post-closing matters;
  - (h) corresponding and communicating with Bennett Jones, Elementa’s primary and first-ranking secured creditor;
  - (i) responding to calls and enquiries from creditors and other stakeholders regarding Elementa and the receivership proceedings;

- (j) recording receipts and disbursements, including the preparation of the Receivers' statement of receipts and disbursements from the Date of Appointment to May 24, 2016;
  - (k) preparing the Fourth Report and this Fifth Report; and
  - (l) other matters pertaining to the administration of Elementa's receivership proceedings.
21. To the best of its knowledge and belief, the Receiver has complied with all of its statutory duties and obligations pursuant to the BIA as at the date of this Fifth Report. Prior to filing its Certificate of Discharge (as hereinafter defined), the Receiver will complete its statutory duties, including preparing and filing its final report pursuant to section 246(3) of the BIA.

**Receiver's Statement of Receipts and Disbursements**

22. The Receiver's statement of receipts and disbursements for the period from the Date of Appointment to May 24, 2016 (the "R&D") is summarized as follows:

<b>Elementa Group Inc.</b>	
<b>Statement of Receipts and Disbursements</b>	
<b>For the Period December 21, 2015 to May 24, 2016</b>	
<b>Receipts</b>	
Refunds	\$ 34,825.00
Proceeds from the Transaction	1,225,000.00
Sales Tax Collected	130.00
Interest	264.39
<b>Total Receipts</b>	<b>\$ 1,260,219.39</b>
<b>Disbursements</b>	
Miscellaneous	140.00
Sales Tax Paid on Disbursements	18.20
<b>Total Disbursements</b>	<b>\$ 158.20</b>
<b>Cash on Hand</b>	<b>\$ 1,260,061.19</b>

23. As detailed in the table above, the Receiver had total receipts of \$1,260,219 between the Date of Appointment and May 24, 2016, the majority of which relate to proceeds received from the Transaction. Total disbursements over the same period were approximately \$158, and as at May 24, 2016, cash on hand was \$1,260,061.

24. The Receiver estimates there remains approximately \$327,000 in Accrued Obligations relating primarily to professional fees and disbursements incurred up to May 27, 2016 as part of these receivership proceedings. In addition, the Receiver estimates Remaining Fees and Disbursements in the amount of approximately \$25,000 (excluding HST).
25. The Receiver seeks authority to pay the Outstanding Disbursements from cash on hand without further order of this Court.
26. Upon satisfying the Remaining Matters (as hereinafter defined), the Receiver shall distribute any residual amounts remaining in its possession, or subsequently collected by the Receiver, to Bennett Jones on account of its outstanding secured indebtedness without further order of this Court. As at the date of this Fifth Report, the Receiver does not anticipate any additional material realizations.

#### **Elementa's Obligations to Bennett Jones**

27. Details of the Company's obligations to Bennett Jones are set out in the affidavit of Eden Oliver of Bennett Jones dated November 27, 2015 (the "**Oliver Affidavit**"), sworn in support of Bennett Jones' application for the appointment of the Receiver.
28. As noted in the Oliver Affidavit, as at November 18, 2015, Bennett Jones was owed \$2,922,329 by Elementa in respect of legal fees, disbursements, interest and taxes.
29. Elementa's obligations to Bennett Jones are secured by a General Security Agreement dated June 12, 2014 (the "**Bennett Jones' Security**").
30. The Receiver has obtained an independent, written legal opinion from GSNH with respect to the validity and enforceability of the Bennett Jones' Security (the "**Security Opinion**"). According to the Security Opinion, it is GSNH's view that, subject to the customary qualifications and limitations included therein, Bennett Jones' Security is valid and enforceable against all of the Property. A copy of the Security Opinion is attached hereto as **Appendix "L"**.

## Priority Claims

31. Based on a review of the PPSA, Bennett Jones as well as several other parties have registered their respective security interests against the personal property of the Company. According to the PPSA, the order of registrations is Bennett Jones and then the other registrants. A summary of the registrations is attached to the Security Opinion found at Appendix "L" hereto.
32. The Bennett Jones' Security is subject to prior charges and security interests or claims in respect of the Property, which include:
  - (a) the Receiver's Charge;
  - (b) the Receiver's Borrowing Charge;
  - (c) deemed trust claims; and
  - (d) statutory claims pursuant to the BIA (the "**BIA Claims**").

### Receiver's Charge

33. As at the date of this Fifth Report, the Receiver and its counsel, have not received payment for any of their fees and disbursements incurred as part of Elementa's receivership proceedings. As discussed further below, the outstanding/accrued fees and disbursements of the Receiver and its legal counsel, GSNH, for the period ending May 24, 2016 total approximately \$290,000 (excluding HST). In addition, the Receiver has estimated Remaining Fees and Disbursements in the amount of \$25,000 (excluding HST). In order to provide for the Outstanding Disbursements, the Receiver proposes to hold a reserve of approximately \$410,000 (being the amount of the Accrued Obligations, the Remaining Fees and Disbursements and the Administration Deposit (as hereinafter defined)) and an additional general reserve, subject to the Court granting the order requested by the Receiver as described herein.

### Receiver's Borrowing Charge

34. Pursuant to paragraph 21 of the Appointment Order, the Receiver was authorized to borrow up to \$200,000, as it considered necessary or desirable. As of the date of this Fifth Report, no borrowings are outstanding.

Deemed Trust Claims

35. The Receiver understands Elementa made normal course remittances to Canada Revenue Agency (“CRA”) in connection with source deductions withheld from its employees. Additionally, as the Company had no source of revenue prior to the Date of the Appointment, the Receiver understands Elementa was not in a payable position with respect to sales taxes prior to the Date of Appointment. As such, the Receiver is not aware of any amounts that would be subject to a deemed trust in favour of CRA and the Receiver has not been contacted by CRA in connection with same.

BIA Claims

36. As detailed in the First Report, the Receiver understands Elementa had no employees or active business operations at the Date of Appointment. The Receiver further understands that all outstanding amounts owed to the Company’s former employees in respect of wages and/or vacation pay were paid prior to the Date of Appointment. Accordingly, the Receiver is not aware of any amounts owing to Elementa’s former employees pursuant to section 81.4 of the BIA.

37. Similarly, the Receiver understands that the Company did not provide a registered pension plan for its employees. Accordingly, the Receiver is not aware of any amounts owing to Elementa’s former employees pursuant to section 81.6 of the BIA.

**Proposed Distribution to Bennett Jones**

38. Subject to this Court’s approval, the following summarizes the funds that will remain in the Receiver’s possession after the interim distribution to Bennett Jones (the “**Interim Distribution**”) is completed:

<b>Elementa Group Inc.</b>	
<b>Funds Remaining after Interim Distribution to Bennett Jones</b>	
<b>Cash on Hand</b>	<b>\$ 1,260,061.19</b>
<b>Interim Distribution to Bennett Jones</b>	<b>\$ 850,000.00</b>
<b>Net Reserve</b>	<b>\$ 410,061.19</b>

Other than the claims described above, the Receiver is not aware of any security interests, liens, charges, encumbrances or other rights of third parties that would have priority over the Bennett Jones’ Security, with respect to the Property or the proceeds therefrom.



39. The Receiver is of the view that, in order to maximize efficiency and avoid the need to seek the approval of the Court to make subsequent distributions to Bennett Jones, it is appropriate, in addition to seeking approval of the Initial Distribution, to seek the Court's approval to make such subsequent distributions to Bennett Jones as the Receiver determines are appropriate, subject to the Receiver maintaining sufficient reserves to complete the administration of Elementa's receivership proceedings, including payment of any Outstanding Disbursements.
40. The Receiver respectfully requests that the Court authorize the Interim Distribution and such subsequent distributions to Bennett Jones as the Receiver determines are appropriate, subject to maintaining sufficient reserves in order to satisfy the Outstanding Disbursements and complete the administration of Elementa's receivership proceedings.

### **Assignment in Bankruptcy**

41. The receivership proceedings have facilitated an orderly sale of substantially all of Elementa's business and assets. Subsequent to the Closing Date and the eventual termination of these receivership proceedings, Elementa will have no material assets with which to pay its remaining obligations. As noted in the First Report, according to Elementa's books and records, in addition to the amounts owed to Bennett Jones and the Company's other secured creditors, Elementa has accrued and unpaid unsecured obligations totalling approximately \$7 million.
42. As noted previously in this Fifth Report, Bennett Jones filed the Bankruptcy Motion to provide some finality to these proceedings. As a matter of expediency, the Bankruptcy Motion requests an order that, among other things, authorizes and directs the Receiver to file an assignment in bankruptcy on behalf of Elementa.
43. Should the Court grant the Bankruptcy Motion, Richter has agreed to act as trustee in bankruptcy, provided that it receives funding (there are no material assets remaining in the estate). Bennett Jones has agreed, in order to fund the bankruptcy, to the transfer of \$25,000 plus HST (the "**Administration Deposit**") from the Transaction proceeds eligible to be distributed to Bennett Jones by the Receiver to the Trustee to fund the bankruptcy administration process.

### **Remaining Matters to be Completed in these Proceedings**

44. If this Court grants the order requested herein, the Receiver will have completed its duties, statutory or otherwise, except for the following (the “**Remaining Matters**”):
- (a) making an assignment in bankruptcy for and on behalf of the Company and executing any and all necessary documents to effect such assignment in bankruptcy;
  - (b) paying the Outstanding Disbursements;
  - (c) paying the Administration Deposit;
  - (d) completing and filing the Company’s 2015 corporate tax return with CRA;
  - (e) pursuing the potential recovery of any unclaimed HST input tax credits paid during these proceedings; and
  - (f) attending to other administrative matters incidental to these proceedings such as filing the Receiver’s report pursuant to section 246(3) of the BIA.
45. Upon the completion of the Remaining Matters, the Receiver will have realized on the Property and completed its statutory duties as well as those duties set out in the Appointment Order or subsequent orders of this Court. Accordingly, the Receiver is of the view that it is appropriate to seek an order of the Court discharging the Receiver upon the filing of a certificate (the “**Certificate of Discharge**”) with this Court certifying that all of the Remaining Matters have been completed.

### **Request for Approval of Fees**

46. The Receiver and its counsel, GSNH, have maintained detailed records of their professional time and disbursements since the date of the Interim Order.
47. The Receiver’s professional fees incurred for services rendered from November 30, 2015 to May 27, 2016 amount to \$222,747.50, plus disbursements in the amount of \$4,680.12 (all excluding HST). These amounts represent professional fees and disbursements not yet approved by the Court. The time spent by the Receiver’s professionals is described in the affidavit of Adam Sherman attached hereto as **Appendix “M”**.

48. The fees of the Receiver's counsel, GSNH, for services rendered from November 30, 2015 to May 24, 2016 total \$59,530.00, plus disbursements in the amount of \$2,571.30 (all excluding HST). These amounts represent professional fees and disbursements not yet approved by the Court. The time spent by the GSNH professionals is described in the affidavit of Mario Forte attached hereto as **Appendix "N"**.
49. The Receiver has reviewed GSNH's accounts and has determined that the services have been duly authorized and duly rendered and that the charges are reasonable given the circumstances.
50. In addition to the fees incurred by the Receiver and its counsel noted above, and on the assumption that there are no delays, disputes or unforeseen developments in connection with these proceedings, including the within motion, and the performance of the Remaining Matters, the Receiver has estimated Remaining Fees and Disbursements in the amount of \$25,000 as follows: (i) \$20,000 for the Receiver and (ii) \$5,000 for its counsel (all amounts excluding HST). These estimates represent the Receiver's best estimate of the reasonable professional and legal fees required to complete the administration of these proceedings up to the effective date of discharge.

## **Conclusion**

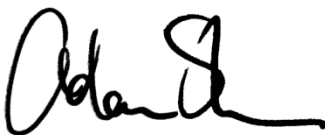
51. To the best of the Receiver's knowledge and belief, all duties of the Receiver, as set out in the Appointment Order and subsequent orders of this Court, will be completed upon payment of the Interim Distribution, the Outstanding Disbursements, the Administration Deposit and completion of the Remaining Matters.
52. Based on the foregoing, the Receiver respectfully recommends that the Court issue an order(s):
  - (a) approving the First Report, the Second Report, the Third Report, the Fourth Report, the Fifth Report and the actions, activities and conduct of Richter and/or the Receiver set out therein;
  - (b) approving the R&D;
  - (c) authorizing the Receiver, should the Court grant the Bankruptcy Motion, to make an assignment in bankruptcy for and on behalf of the Company and execute any and all necessary documents to effect such assignment in bankruptcy;

- (d) authorizing and directing the Receiver, should the Court grant the Bankruptcy Motion, should the Court grant the Bankruptcy Motion, to pay the Administration Deposit to the Trustee, from proceeds in the Receiver's possession;
- (e) authorizing the Receiver to pay the Outstanding Disbursements without further approval of this Court;
- (f) authorizing the Receiver to make the Interim Distribution and authorizing the Receiver to distribute any residual amounts remaining in its possession to Bennett Jones after the payment of the Outstanding Disbursements and the Administration Deposit;
- (g) approving the accounts of the Receiver and its counsel, including the Remaining Fees and Disbursements, as set out in this Fifth Report;
- (h) discharging the Receiver upon completion of the Remaining Matters, subject to the Receiver filing the Certificate of Discharge evidencing same with the Court; and
- (i) ordering and declaring that effective upon its discharge as Receiver, Richter is released and discharged from any and all liability that Richter now has or may hereafter have by reason of, or in any way arising out of, the acts or omissions of Richter while acting in its capacity as Receiver, save and except for any gross negligence or wilful misconduct on the part of Richter.

All of which is respectfully submitted this 31<sup>st</sup> day of May, 2016.

**Richter Advisory Group Inc.  
in its capacity as Receiver of  
Elementa Group Inc.**

Per:



Adam Sherman, MBA, CIRP  
Senior Vice President



Pritesh Patel, MBA, CFA, CIRP  
Vice President

TAB A

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

THE HONOURABLE MR. ) MONDAY, THE 30<sup>TH</sup> DAY  
JUSTICE HAINEY ) OF NOVEMBER, 2015

B E T W E E N:

**BENNETT JONES LLP**

Applicant

-and-

**ELEMENTA GROUP INC.**

Respondent

**ORDER**

THIS APPLICATION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing Richter Advisory Group Inc. ("**Richter**") as receiver (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of Elementa Group Inc. (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Eden Oliver sworn November 27, 2015 and the Exhibits thereto and on hearing the submissions of counsel for the Applicant, counsel for Leonard Zwierschke and Jayson Zwierschke ( together, the "**Respondents**"), counsel for John Ashbourne, and counsel for Richter,

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Motion is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that the Application is hereby adjourned to December 21, 2015 at 9:00 a.m. for one hour, to be heard by Justice Hailey in order to enable the Respondents to respond to the merits of the Application to appoint the Receiver which response is not to be an assessment of Bennett Jones' legal accounts.
3. THIS COURT ORDERS that responding materials to the Application are to be served by December 10, 2015 and that the parties are to appear before Justice Hailey on December 10, 2015 at 9:30 a.m. for 10 minutes, to provide a progress report on the matter.
4. THIS COURT FURTHER ORDERS that Richter is to take possession of the server and certain boxes containing notes and records referable to the data on the server on an interim basis, (the "Property") as interim custodian until further order of this Court, and that Mr. John Ashbourne, the Chairman of the Board of Directors of the Debtor, shall cooperate in providing Richter with possession of the Property.
5. THIS COURT ORDERS that Richter shall incur no liability or obligation as a result of carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part.

Approved as to form & content.

*[Signature]*  
LAWYER FOR LEONARD ZWIERSCHKE  
AND JAYSON ZWIERSCHKE.  
BRENT MARSHALL  
Barrister, Solicitor, Notary Public

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**BENNETT JONES LLP**  
Applicant/Plaintiff

– and –

**ELEMENTA GROUP INC.**  
Respondent/Defendant

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**Court File No. CV-15-11198-00CL**

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

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Proceeding commenced at TORONTO

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**ORDER**

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**BENNETT JONES LLP**  
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Toronto, Ontario M5X 1A4

**Gavin H. Finlayson (#44126D)**  
Email: finlaysong@bennettjones.com

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Email: afrozd@bennettjones.com

Tel. 416 863 1200  
Fax 416 863 1716

Lawyers for the Applicant  
Bennett Jones LLP



**TAB B**

ONTARIO  
SUPERIOR COURT OF JUSTICE

THE HONOURABLE MR. JUSTICE  
GLENN A. HAINEY

) Monday, THE 26 DAY  
) OF DECEMBER, 2015

JUSTICE

BETWEEN



**BENNETT JONES LLP**

Applicant

-and-

**ELEMENTA GROUP INC.**

Respondent

**ORDER  
(appointing Receiver)**

THIS MOTION made by the Applicant for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing Richter Advisory Group Inc. ("Richter") as receiver (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of Elementa Group Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Eden Oliver sworn November 27, 2015 and the Exhibits thereto, the affidavit of Jayson Zwierschke sworn December 9, 2015 and on hearing the submissions of counsel for the Applicant and the Respondent and on reading the consent of Richter to act as the Receiver,

## **SERVICE**

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

## **APPOINTMENT**

2. THIS COURT ORDERS AND DECLARES that pursuant to section 243(1) of the BIA and section 101 of the CJA, Richter is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceedings thereof (the “**Property**”).

## **RECEIVER’S POWERS**

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (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 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;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$100,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; 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 63(4) of the Ontario *Personal Property Security Act*, [or section 31 of the Ontario *Mortgages Act*, as the case may be,] shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.
- (l) 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;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the

foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;

- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (r) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

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

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

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 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 due to statutory provisions prohibiting such disclosure.

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

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

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

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

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

9. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

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

10. THIS COURT ORDERS that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "**eligible financial contract**" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) 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**

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



## **CONTINUATION OF SERVICES**

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

## **RECEIVER TO HOLD FUNDS**

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

## **EMPLOYEES**

14. THIS COURT ORDERS that 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*.

## **PIPEDA**

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). 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**

16. THIS COURT ORDERS that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in

pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

### **RECEIVER'S ACCOUNTS**

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge in an amount not exceeding \$200,000 (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

## FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$200,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

## SERVICE AND NOTICE

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service->

protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘<@>’.

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

#### **GENERAL**

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

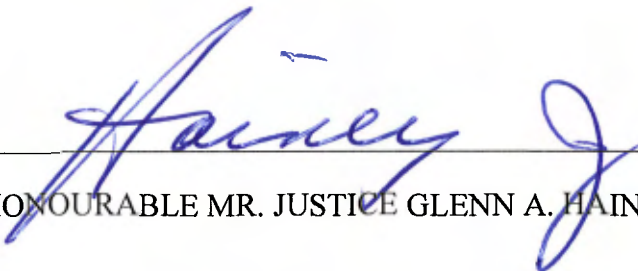
28. THIS COURT ORDERS that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

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

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

31. THIS COURT ORDERS that 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.

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

  
\_\_\_\_\_  
THE HONOURABLE MR. JUSTICE GLENN A. HAINES

ENTERED AT / INSCRIT A TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

 DEC 21 2015

## SCHEDULE "A"

### RECEIVER CERTIFICATE

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

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

1. THIS IS TO CERTIFY that [RECEIVER'S NAME], the receiver (the "**Receiver**") of the assets, undertakings and properties [DEBTOR'S NAME] acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number \_\_\_-CL-\_\_\_\_\_, 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.

33. 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.

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

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

36. 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.

37. 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.

38. 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\_\_.

[RECEIVER'S NAME], solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

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

Name:

Title:



**BENNETT JONES LLP – and – ELEMENTA GROUP INC.**

**Court File No. CV-15-11198-00CL**

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

Proceeding commenced at TORONTO

**ORDER  
(appointing Receiver)**

**BENNETT JONES LLP**  
One First Canadian Place  
Suite 3400, P.O. Box 130  
Toronto, Ontario  
M5X 1A4

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Tel. 416 863 1200  
Fax 416 863 1716

Lawyers for the Applicant  
Bennett Jones LLP

T A B C

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE *Madam* ) FRIDAY, THE 19TH  
JUSTICE *CONWAY* ) DAY OF FEBRUARY, 2016



IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.

**ORDER**

**THIS MOTION**, made by Richter Advisory Group Inc. ("**Richter**") in its capacity as the Court-appointed Receiver (in such capacity, the **Receiver**"), without security, of all the assets, undertakings and properties (collectively, the **Property**) of Elementa Group Inc. ( "**Elementa**") for an order substantially in the form included in the Receiver's Motion Record, amongst other things, approving a stalking horse agreement of purchase and sale and related bidding procedures and approving the First Report of the Receiver dated February 16, 2016 (the "**First Report**") was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the First Report and appendices thereto, and on hearing the submissions of counsel for the Receiver, and Bradam Canada Inc. (the "**Stalking Horse Bidder**"), no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Sanja Sopic sworn February 17, 2016, filed.

**1. THIS COURT ORDERS** that the time for service and filing of the Receiver's Notice of Motion and the Motion Record is hereby abridged and service thereof is hereby validated so that this motion is properly returnable today and further service thereof is hereby dispensed with.

2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall have the respective meanings ascribed to them in the Stalking Horse Agreement or the Bidding Procedures (as such terms are defined below), as the case may be.

3. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to enter into an agreement to sell substantially all of the assets, property and undertakings of Elementa (collectively, the "**Purchased Assets**") to the Stalking Horse Bidder, substantially in the form of the agreement attached as Appendix "D " to the First Report (the "**Stalking Horse Bid**" or "**Stalking Horse Agreement**"), and such agreement, subject to the terms of this Order, is hereby approved and accepted for the purpose of conducting the Stalking Horse Sales Process (as such term is defined below) in accordance with this Order and the Bidding Procedures (as such term is defined below).

4. **THIS COURT ORDERS** that the sales and bidding procedures described in the First Report and attached hereto as **Schedule "A"** (the "**Bidding Procedures**") and the sales process and auction described therein (collectively, the "**Stalking Horse Sales Process**") be and are hereby approved and the Receiver is hereby authorized and directed to conduct the Stalking Horse Sales Process.

5. **THIS COURT ORDERS** that to qualify as a Qualified Bid, a bid must be received on or before 5:00 p.m. (Toronto time) on March 21, 2016 (the "**Bid Deadline**") and must be considered by the Receiver, in its sole discretion, to be a Qualified Bid, as defined in the Bidding Procedures. The Stalking Horse Bid shall be considered a Qualified Bid.

6. **THIS COURT ORDERS** that in addition to the Bidding Procedures, the following Stalking Horse Sales Process with respect to the Property be and is hereby approved as follows:

- (a) the Receiver shall solicit potential purchasers to submit bids by:
  - (i) sending out an official offering summary (the "**Teaser Letter**") to parties who may be interested in purchasing the Property as identified by the Receiver (the "**Potential Bidders**"), to notify them of the existence of the Stalking Horse Sales Process and invite the Potential Bidders to make an

offer to acquire all or any part of the Property as soon as reasonably practicable after issuance of this Order;

- (ii) sending a form of confidentiality agreement (the “**Confidentiality Agreement**”) to Potential Bidders as identified by the Receiver, along with the Teaser Letter;
  - (iii) providing to any Potential Bidders who execute the Confidentiality Agreement on terms satisfactory to the Receiver: (1) access to an electronic data room established by the Receiver containing relevant information relating to Elementa and its Property, and (2) an electronic copy of the Stalking Horse Bid;
- (b) any interested purchaser shall submit a formal offer to purchase the Property in the form of the Stalking Horse Agreement (with a copy blacklined against the Stalking Horse Agreement), and an aggregate purchase price at least equal to the Stalking Horse Bid, plus an additional sum of \$150,000.00, and a deposit equal to at least 10% of the aggregate purchase price under the subject bid by way of Certified Cheque, Bank Draft or Wire Transfer payable to the Receiver in trust on or before the Bid Deadline;
- (c) the Receiver shall review any bids received by the Bid Deadline and determine if there are one or more Qualified Bids;
- (d) if there is no Qualified Bid other than the Stalking Horse Bid, the Receiver shall bring a motion as soon as reasonably possible after the Bid Deadline for approval of the Stalking Horse Agreement and an order to vest the right, title and interest of Elementa in the Purchased Assets in the Stalking Horse Bidder and proceed with closing the transaction forthwith;
- (e) if there are one or more Qualified Bids apart from the Stalking Horse Bid, the Receiver shall send out invitations on or before 3:00 p.m. (Toronto time) on March 23, 2016, or as reasonably practicable, to all persons who have submitted Qualified Bids and to the Stalking Horse Bidder (the “**Auction Notice**”), inviting

them to attend an auction (the “**Auction**”) to be conducted by the Receiver at 10:00 a.m. (Toronto time) on March 25, 2016, at the offices of the Receiver, or otherwise as may be determined by the Receiver, in its sole discretion. The Auction Notice shall include, amongst other things: (a) the date, time and location of the Auction; (b) a copy of the most favourable Qualified Bid (the “**Opening Bid**”) as determined in accordance with the Bidding Procedures; and (c) the procedures pursuant to which the Auction is to be conducted;

- (f) if the bidder of a Qualified Bid intends to participate in the Auction, it must advise the Receiver of such intention in writing at least one (1) Business Day prior to the Auction (a “**Participation Notice**”). If at least two (2) Participation Notices are received, the Auction will take place and shall be conducted in accordance with the procedures set out in the Bidding Procedures;
- (g) the Receiver may establish such timelines and protocols for the Auction as it considers appropriate, in its discretion, which will not be inconsistent with the terms of this Order or the Bidding Procedures; and
- (h) the “**Winning Bidder**” shall be: (1) if there are no bids at the Auction, the bidder with the Opening Bid; or (2) the bidder with the highest bid received at the Auction as determined in accordance with the Bidding Procedures (the “**Winning Bid**”).

7. **THIS COURT ORDERS** that upon acceptance of the Winning Bid, there shall be a binding agreement of purchase and sale between the Winning Bidder and the Receiver in accordance with the Bidding Procedures, and the following shall take place:

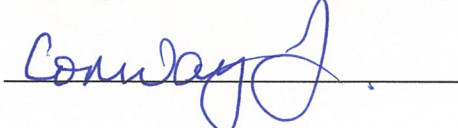
- (a) within seven (7) Business Days after the completion of the Auction, the Receiver shall make a motion to this Court for an order to approve the Winning Bid and to vest the right, title and interest of Elementa in the Property in the Winning Bidder, and proceed with closing the transaction forthwith; and
- (b) if the Winning Bidder fails to comply with the terms and conditions of the Winning Bid, or any of them, all deposits shall be forfeited to the Receiver on

account of liquidated damages, without prejudice to all other rights and remedies the Receiver may have under the Winning Bid or at law or in equity as a result of such failure to comply, and the Property subject to the Winning Bid may be resold by the Receiver. In that event, the Receiver may in its sole discretion accept the Back-Up Bid, as defined in the Bidding Procedures. Upon acceptance of the Back-Up Bid, there shall be a binding agreement of purchase and sale between the bidder of the Back-Up Bid and the Receiver in accordance with the Bidding Procedures, and if necessary the Receiver may in its sole discretion in such acceptance extend the Closing Date to a date no later than April 30, 2016. The Receiver shall make a motion to this Court, within seven (7) Business Days after its acceptance of the Back-Up Bid, for an order to approve the Back-Up Bid and to vest the right, title and interest of Elementa in the Property in the purchaser thereunder, and proceed with closing the transaction forthwith.

8. **THIS COURT ORDERS** that in connection with the Stalking Horse Sales Process and pursuant to clause 7(3) (c) of the *Personal Information Protection and Documents Act* (Canada), the Receiver may disclose personal information of identifiable individuals to Potential Bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete a sale of such assets. Each Potential Bidder to whom any 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 said assets and related business, and if it does not complete a purchase thereof, shall return all such information to the Receiver or in the alternative shall destroy all such information and certify such destruction to the Receiver. 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 Elementa, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

9. **THIS COURT ORDERS** that the Receiver and its counsel be and they hereby are authorized to serve or send, or cause to be served or sent, this Order (including any of the materials referred to in this Order and other materials relating to the Stalking Horse Sales Process), any other materials and orders in these proceedings, and any notices or correspondence,

by commercial electronic messages to electronic addresses, attaching true copies thereof, of Elementa's creditors and other interested parties (including prospective purchasers or bidders to the extent necessary or desirable to provide information and material with respect to the Stalking Horse Sales Process), and their advisers. For greater certainty, any such service or sending shall be deemed to be in satisfaction of a legal or judicial obligation, or the provision of notice of an existing or pending right, legal or juridical obligation or court order, within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DOS).

  
\_\_\_\_\_

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LE / DANS LE REGISTRE NO.:

 FEB 19 2016



## SCHEDULE "A"

### BIDDING PROCEDURES

#### Background

On December 21, 2015, the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made an order (the "**Appointment Order**") appointing Richter Advisory Group Inc. ("**Richter**") receiver (the "**Receiver**") over the assets, undertakings and properties (the "**Property**") of Elementa Group Inc. ("**Elementa**" or the "**Company**") acquired for, or used in relation to the business carried on by Elementa, including all proceeds thereof.

On or about February 19, 2016, the Receiver will bring a motion for an order (the "**Sales Process Order**") with the Court seeking, among other things, approval of:

- (i) the Receiver's execution of an agreement of purchase and sale of substantially all assets of the Company (the "**Purchased Assets**") between the Receiver and Bradam Canada Inc. (the "**Stalking Horse Bidder**") dated February 12, 2016 (the "**Stalking Horse Agreement**") for total consideration of \$1,500,000.00 (the "**Stalking Horse Bid**") so as to set a minimum floor price in respect of the sale process for the Purchased Assets; and
- (ii) the process for the solicitation of offers or proposals for the acquisition of the Property or any parts thereof (each a "**Bid**", and each party who submits a Bid, a "**Bidder**"), including approval of the bidding procedures detailed herein (the "**Bidding Procedures**").

Accordingly, these Bidding Procedures shall govern the solicitation by the Receiver of Bids that are superior to that contemplated by the Stalking Horse Agreement and the proposed sale of the Purchased Assets.

Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian dollars.

#### Bidding Procedures

These Bidding Procedures provide for one phase of bidding in which to solicit binding offers to purchase all or part of the Property. In the event that the Receiver determines that the results of any Bids received satisfy the conditions for an auction, as set out below, the Receiver shall conduct an auction in accordance with the procedures set out in Section 9 below.

#### **1. Assets for Sale**

The Receiver is soliciting Bids for the Property, or any parts thereof, that are superior to that contemplated by the Stalking Horse Agreement. For the purposes of the Bidding Procedures, the Property shall collectively include substantially all of the assets, undertakings and properties of Elementa, which for clarity includes the shares of Elementa Algoma LP, Elementa Algoma Inc. and Elementa Holdings Ltd., acquired for or used in relation to Elementa's business.

#### **2. Solicitation**

The Receiver has prepared: (a) a list of potential bidders for the Assets (the "**Potential Bidders**"),

including both strategic and financial parties who may be interested in acquiring the Property; (b) an initial offering summary (the “**Teaser Letter**”) to notify Potential Bidders of the existence of this solicitation process and invite the Potential Bidders to make an offer to acquire all or any part of the Property; and (c) a form of confidentiality agreement (the “**Confidentiality Agreement**”).

The Receiver shall commence the solicitation process as soon as practical upon receipt of the Sales Process Order, by sending the Teaser Letter and the Confidentiality Agreement to the Potential Bidders.

### **3. Access to Due Diligence Materials**

Interested parties that execute and deliver to the Receiver the Confidentiality Agreement shall receive access to an electronic data room established by the Receiver to provide Potential Bidders with relevant information relating to the Company and its Property, and a copy of the Stalking Horse Agreement (the “**Due Diligence Access**”). Each party’s Due Diligence Access shall terminate upon the earliest of the following events to occur:

- (i) Such party does not submit a Bid by the Bid Deadline (as defined below);
- (ii) Such party submits a Bid by the Bid Deadline but the Receiver determines that such party does not constitute a Qualified Bidder (as defined below);
- (iii) Such party does not participate in the Auction (as defined below); or
- (iv) At the conclusion of the Auction.

Notwithstanding that a party’s Due Diligence Access may continue until the end of the Auction, the Receiver shall not be obligated to furnish any additional due diligence information after the Bid Deadline.

The Receiver will designate a representative to coordinate all reasonable requests for Due Diligence Access for all parties eligible to receive such access in accordance with Section 3. The Receiver is not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the Property and does not make any representations or warranties as to the information or materials provided, except to the extent of any representations or warranties provided for in the relevant agreement(s) with the Winning Bidder(s) (as defined below).

### **4. Due Diligence from Bidders**

Each Bidder shall comply with all reasonable requests for additional information by the Receiver regarding such Bidder and its contemplated transaction. Failure by a Bidder to comply with requests for additional information could be the basis for the Receiver to determine that a Bidder is not a Qualified Bidder (as defined below).

### **5. As is, where is**

Any sale of the Property will be completed on an “as is, where is” basis and without surviving representations, warranties, covenants or indemnities of any kind, nature, or description by the Receiver or the Company or their respective agents, professionals, advisors, or otherwise, except to the extent set forth in the relevant agreement(s) with the Winning Bidder(s).

## 6. Bidding Deadlines

All Bids must be submitted in accordance with the terms of these Bidding Procedures so that they are received by the Receiver no later than 12pm EST on March 21, 2016 (the “**Bid Deadline**”). A Bid received by the Receiver after the Bid Deadline shall not constitute a Qualified Bid (as defined below).

Written copies of the Bids shall be delivered via e-mail or by personal delivery to the Receiver at:

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

Attention: Adam Sherman  
E-mail: [asherman@richter.ca](mailto:asherman@richter.ca)

with a copy to the Receiver’s counsel at:

Goldman Sloan Nash & Haber LLP  
480 University Avenue, Suite 1600  
Toronto, Ontario M5G 1V2

Attention: Mario Forte  
E-mail: [forte@gsnh.com](mailto:forte@gsnh.com)

## 7. Bid Requirements

To participate in the process detailed by these Bidding Procedures and to otherwise be considered for any purpose hereunder, a Bidder must deliver a Bid to the Receiver by the Bid Deadline which satisfies each of the following conditions:

- (i) Identification: The Bid must identify the Bidder and representatives thereof who are authorized to appear and act on behalf of the Bidder for all purposes regarding the contemplated transaction;
- (ii) Form and Content. The Bid must be in the form of the Stalking Horse Agreement and executed by the Bidder (each, a “**Proposed Purchase Agreement**”). Any changes and modifications to the Stalking Horse Agreement are to be indicated on a blackline to the Stalking Horse Agreement (including, if applicable, any modifications made to reflect the Property or parts thereof sought to be purchased), which is to be submitted along with the executed version;
- (iii) Minimum Consideration. The aggregate consideration of a Bid that includes all of the Purchased Assets must provide a cash purchase price of at least \$1,650,000.00 (the “**Minimum Purchase Price**”). The Minimum Purchase Price is the aggregate of: (a) the Stalking Horse Bid; (b) the Break- Up Fee (as defined in the Stalking Horse Agreement) of \$50,000.00; and (c) \$100,000.00. In the event that the Bid is for less than all of the Purchased Assets, such Bid shall not be subject to the Minimum Purchase Price; provided, however, that such Bid must be

capable of being paired by the Receiver with one or more other Bids which in the aggregate provide for a cash purchase price of at least the Minimum Purchase Price;

- (iv) Good-Faith Deposit. The Bid must be accompanied by a cash deposit equal to at least ten percent (10%) of the total cash purchase price contemplated by the Bid (the “**Good Faith Deposit**”), and the Good Faith Deposit shall be paid to the Receiver, to be held by the Receiver in trust in accordance with these Bidding Procedures;
- (v) Financial Wherewithal. The Bid must include evidence satisfactory to the Receiver of the Bidder’s financial ability to close by the Closing Date (as defined below);
- (vi) Closing Date. The Bid must contain a binding commitment by the Bidder to close on the terms and conditions set forth in the Proposed Purchase Agreement as soon as practicable after satisfaction or waiver of all conditions; provided that such closing must take place by no later than April 30, 2016 (the “**Closing Date**”);
- (vii) Irrevocable. The Bid must be accompanied by a letter which confirms that the Bid may be accepted by the Receiver, by the Receiver countersigning the Proposed Purchase Agreement, and is irrevocable and capable of acceptance until the earlier of: (a) the day on which the Bidder is notified that the Bid is not a Qualified Bid (as defined below); (b) the day on which a Winning Bid or Winning Bids are selected, if the Bid is neither a Winning Bid nor a Back-Up Bid (as defined below) selected on such day; (c) if the Bid is the Back-Up Bid, then the day on which the Winning Bid(s) closes; and (d) April 30, 2016 (the “**Termination Date**”);
- (viii) No Representations and Warranties. A Bid shall include an “as is, where is” clause substantially on the same terms as the “as is, where is” clause set out in the Stalking Horse Agreement;
- (ix) Contingencies. The Bid may not be conditional on obtaining financing, or obtaining assignments on any leases or contracts of the Company or its affiliates, or any internal approval, or on the outcome or review of due diligence. Any other contingencies associated with the Bid may not, in the opinion of the Receiver, in the aggregate, be more burdensome or conditional than those set forth in the Stalking Horse Agreement;
- (x) No Fees Payable to Bidder. The Bid may not request or entitle the Bidder to any break-up fee, expense reimbursement, termination or similar type of fee or payment. Further, by submitting a Bid, a Bidder shall be deemed to irrevocably waive any right to pursue a claim in any way related to the submission of its Bid or these Bidding Procedures; and
- (xi) Other Information. A Bid shall contain such other information reasonably requested by the Receiver.

## 8. Designation as Qualified Bidder

The Receiver may discuss, negotiate or seek clarification of any Bid. A Bidder may not modify, amend or withdraw its Bid without the written consent of the Receiver. Any such modification, amendment or withdrawal of a Bid by a Bidder without the written consent of the Receiver shall result in a forfeiture of such Bidder’s Good-Faith Deposit.

After any clarifying discussions or negotiations, the Receiver shall review all Bids and other documentation and information submitted by the Bidders, and shall determine, in its sole discretion, those Bidders, if any, that are qualified to participate in an auction (the “**Qualified Bidders**” and the Bid of each Qualified Bidder, a “**Qualified Bid**”). All Bids will be considered, but the Receiver reserves the right to reject any and all Bids.

Notwithstanding anything else in the Bidding Procedures, the Stalking Horse Bidder is deemed to be a Qualified Bidder and the Stalking Horse Bid is deemed to be a Qualified Bid for all purposes and at all times.

## 9. Auction

If the Receiver determines that there are no Qualified Bids (other than the Stalking Horse Agreement), then:

- (i) there will be no auction;
- (ii) the Stalking Horse Agreement shall be declared the Winning Bid (as defined below) for the Purchased Assets; and
- (iii) the Receiver shall seek approval of, and authority to consummate, the Stalking Horse Agreement and the transactions provided for therein at the Sale Motion (as defined below).

If the Receiver determines that there is at least one Qualified Bid for all of the Purchased Assets (other than the Stalking Horse Bid) or a combination of non-overlapping Qualified Bids for less than all of the Purchased Assets (an “**Aggregated Bid**”), and such Qualified Bid or Aggregated Bid provides the Minimum Purchase Price, the Receiver shall conduct an auction to determine the highest and/or best Qualified Bid or Aggregated Bid (the “**Auction**”).

If the Auction is to take place, then within two (2) business days after the Bid Deadline, the Receiver shall send written notice to all Qualified Bidders with respect to whether such Bidder is a Qualified Bidder and invite the Qualified Bidder to participate in the Auction (the “**Auction Notice**”). The Auction Notice shall include, amongst other things: (a) the date, time and location of the Auction; (b) a copy of the Opening Bid (as defined below); and (c) the procedures pursuant to which the Auction is to be conducted.

In all cases, the Receiver shall post notice of such facts on its website established in connection with the receivership of the Company, at: <http://www.richter.ca/en/folder/insolvency-cases/e/elementa-group-inc>

If a Qualified Bidder intends to participate in the Auction, it must advise the Receiver of such intention in writing at least one (1) business day prior to the Auction (a “**Participation Notice**”). If at least two (2) Participation Notices are received, the Auction will take place and shall be conducted in accordance with the following procedures:

- (i) Participation at the Auction. The Receiver and its professionals shall direct and preside over the Auction. Only Qualified Bidders are eligible to participate in the Auction. Each Qualified Bidder must have present or available, the individual or individuals with the necessary decision making authority to submit Overbids (as defined below) and to make such necessary and ancillary

decisions as may be required during the Auction. Only the authorized representatives, including counsel and other advisors, of each of the Qualified Bidders and the Receiver shall be permitted to attend the Auction;

- (ii) Rounds. Bidding at the Auction shall be conducted in rounds. The Qualified Bid or Aggregated Bid with the highest and/or best value shall constitute the opening bid (the “**Opening Bid**”) for the first round of bidding. The highest Overbid (as defined below) at the end of each round shall constitute the “Opening Bid” for the following round. The Receiver, in its sole discretion, shall determine what constitutes the Opening Bid for each round. An Aggregated Bid may be an Opening Bid in the first round. A combination of non-overlapping Overbids (an “**Aggregated Overbid**”) may also be an Opening Bid in any subsequent round, if such Aggregated Overbid is determined by the Receiver, in its sole discretion, to be the highest and/or best Overbid. In each round, a Qualified Bidder may submit no more than one Overbid. The Receiver reserves the right to impose time limits for the submission of Overbids. For clarity, the Stalking Horse Bid or any Overbid made by the Stalking Horse Bidder may form part of an Aggregated Bid or Aggregated Overbid;
- (iii) Failure to Submit an Overbid. If, at the end of any round of bidding, a Qualified Bidder or Aggregated Bidder (other than the Qualified Bidder or Aggregated Bidder that submitted the Opening Bid for such round) fails to submit an Overbid, then such Qualified Bidder may not participate in the next round of bidding at the Auction. Any Qualified Bidder or Aggregated Bidder that submits an Overbid or Aggregated Overbid during a round (including the Qualified Bidder or Aggregated Bidder that submitted the Opening Bid for such round) shall be entitled to participate in the next round of bidding at the Auction;
- (iv) Overbids. All Bids made during the Auction shall be “Overbids”. Overbids will be submitted in a form to be determined by the Receiver, in its sole discretion, including further revised and executed Proposed Purchase Agreements. The identity of each Qualified Bidder and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders participating in the Auction. The Receiver shall maintain a transcript of the Opening Bid and all Overbids made and announced at the Auction, including the Winning Bid(s) (as defined below) and the Back-Up Bid(s) (as defined below). To be considered an “Overbid”, a Bid made during the Auction must satisfy the following criteria:
  - (a) Minimum Consideration. The amount of purchase price consideration of any Overbid shall not be less than the purchase price consideration of the Opening Bid of the applicable round of bidding plus \$100,000.00 or such lower or higher amount as the Receiver may determine in advance of such round of bidding in order to facilitate the Auction (the “**Minimum Overbid Increment**”); provided, however, that if an Overbid relates to less than all of the Purchased Assets then the purchase price consideration of such Overbid need only be the purchase price consideration of such Bidder’s prior Bid plus \$100,000.00 or such lower or higher amount as the Receiver may determine in advance of such round of bidding in order to facilitate the Auction; and
  - (b) Remaining terms are the same as for Qualified Bids. Except as modified herein, an Overbid must comply with the conditions for a Bid set forth in Section 7 above; provided, however, that the Bid Deadline shall not apply and Overbids need not be accompanied by additional cash deposits (subject to subsection (vii) hereof). To the extent not previously

provided (which shall be determined by the Receiver), a Qualified Bidder submitting an Overbid must submit, as part of its Overbid, evidence acceptable to the Receiver demonstrating such Qualified Bidder's ability (including financial ability) to close the transaction contemplated by its Overbid;

- (v) Announcing Highest Overbids. At the end of each round of bidding, the Receiver, with the assistance of its advisors, shall: (a) immediately review each Overbid made in such round; (b) identify the highest and/or best Overbid or Aggregated Overbid; and (c) announce the terms of such highest and/or best Overbid or Aggregated Overbid to all Qualified Bidders entitled to participate in the next round of bidding. Such highest and/or best Overbid or Aggregated Overbid shall be the Opening Bid for the next round of the Auction;
- (vi) Adjournments. The Receiver reserves the right, in its reasonable business judgment, to make one or more adjournments in the Auction to, among other things: (a) facilitate discussions between the Receiver and individual Qualified Bidders, including any discussion, negotiation or clarification of any Overbid; (b) allow individual Qualified Bidders to consider how they wish to proceed; (c) consider and determine the current highest and/or best Overbid or Aggregated Overbid at any given time during the Auction; (d) give Qualified Bidders the opportunity to provide the Receiver with such additional evidence as it may require, in its reasonable business judgment, that the Qualified Bidder has sufficient internal resources or has received sufficient non-contingent debt and/or equity funding commitments to consummate the proposed transaction at the Overbid amount; and (e) subject to such rules and guidelines as the Receiver may consider appropriate, facilitate any appropriate consultation by the Receiver and/or Qualified Bidders with third party stakeholders;
- (vii) Closing the Auction. If, in any round of bidding, no Overbid or Aggregated Overbid is made, the Auction shall be closed and the Receiver shall, with the assistance of its advisors: (a) declare the last Opening Bid as the winning Bid(s) (the "**Winning Bid(s)**") and the party or parties submitting such Winning Bid(s), the "**Winning Bidder(s)**"; (b) immediately review the other Overbids or Aggregated Overbids made in the previous round (or the Qualified Bids and Aggregated Bids if no Overbids were made at the Auction) and identify and record the next highest and/or best Overbid or Aggregated Overbid (or Qualified Bid or Aggregated Bid) (the "**Back-Up Bid(s)**") and the party or parties submitting such Back-Up Bid(s), the "**Back-Up Bidder(s)**"; and (c) advise the Winning Bidder(s) and the Back-Up Bidder(s) of such determinations and all other Qualified Bidders that they are not a Winning Bidder or a Back-Up Bidder.

To the extent not already provided, the Winning Bidder(s) and the Back-Up Bidder(s) shall each, within two (2) business days of the conclusion of the Auction, provide the Receiver with an additional cash deposit to increase its original Good Faith Deposit to equal at least ten percent (10%) of the total cash purchase price contemplated by its Winning Bid or Back-Up Bid, as applicable, to be held by the Receiver in trust as such party's "Good Faith Deposit" in accordance with these Bidding Procedures. For greater certainty, the preceding sentence applies equally to the Stalking Horse Bidder if the Stalking Horse Bidder submits an Overbid which is determined to be a Winning Bid or Back-Up Bid;

- (viii) Consent to Jurisdiction as Condition to Bid. All Qualified Bidders shall be deemed to have consented to the exclusive jurisdiction of the Court and waived any right to a jury trial in

connection with any disputes relating to the Auction, and the construction and enforcement of the Qualified Bidder's transaction documents, as applicable;

- (ix) Break-Up Fee. In the event that the Stalking Horse Bidder is not the Winning Bidder, the Break-Up Fee of \$50,000.00 shall be payable to the Stalking Horse Bidder in accordance with the terms of the Stalking Horse Agreement from the proceeds received upon closing the Winning Bid or Back-Up Bid, as applicable; and
- (x) No Collusion. Each Qualified Bidder shall be required to confirm that it has not engaged in any discussions or any other collusive behaviour with respect to the submissions of Overbids. The Receiver may permit discussions between Qualified Bidders at the Auction, subject to such rules and guidelines as the Receiver considers appropriate.

#### **10. Receiver's Reservation of Rights**

In addition to the other reservations of rights set out herein, the Receiver reserves the right in its reasonable discretion to: (a) waive strict compliance with any one or more of the Bid requirements specified herein, and deem such non-compliant Bids to be Qualified Bids; provided that such non-compliance is not material in nature; (b) reject any or all Bids if, in the Receiver's reasonable business judgment, no Bid is for fair and adequate consideration; and (c) adopt such ancillary and procedural rules not otherwise set out herein for these Bidding Procedures (including rules that may depart from those set forth herein) that in its reasonable business judgment will better promote the goals of these Bidding Procedures and facilitate the Auction, provided that the adoption of any rule that materially deviates from these Bidding Procedures shall require an order of the Court.

#### **11. Sale Motion**

The Receiver shall, within seven (7) business days of the conclusion of the Auction, or if there is no Auction, within seven (7) business days of the Bid Deadline, serve notice of a motion seeking approval of the Winning Bidder(s) and the sale of the applicable Property to the Winning Bidder(s) free and clear of all liens and encumbrances, other than those liens and encumbrances expressly to be assumed by the Winning Bidder(s) (the "**Sale Motion**"). At the Sale Motion, the Receiver may also seek, in its sole discretion, conditional approval of the Back-Up Bid(s) authorizing the Receiver to close the Back-Up Bid(s) if the Winning Bid(s) is/are not closed by the Closing Date.

#### **12. Closing the Winning Bid**

The Receiver and the Winning Bidder(s) shall take all reasonable steps to complete the sale transaction contemplated by the Winning Bid(s) as soon as possible after the Winning Bid(s) are approved by the Court. Notwithstanding the foregoing, in the event that there is more than one Winning Bid, the Receiver reserves the right to impose a condition in each Winning Bid that the obligation of the Receiver to complete the sale transaction contemplated by each Winning Bid is conditional upon the completion of the transaction(s) contemplated by each other Winning Bid. The Receiver will be deemed to have accepted the Winning Bid(s) only when the Winning Bid(s) has/have been approved by the Court. If the transaction(s) contemplated by the Winning Bid(s) has/have not closed by the Closing Date or the Winning Bid(s) is/are terminated for any reason prior to the Closing Date, the Receiver may elect, in its sole discretion to seek to complete the transaction(s) contemplated by the Back-Up Bid(s), and upon making such election, the Receiver will seek Court approval of the Back-Up Bid(s) (if such approval has



not already been obtained) and promptly seek to close the transaction(s) contemplated by the Back-Up Bid(s) after such Court approval. The Back-Up Bid(s) will be deemed to be the Winning Bid(s) and the Receiver will be deemed to have accepted the Back-Up Bid(s) only when the Back-Up Bid(s) has/have been approved by the Court and the Receiver has made such election.

**13. Return of Good Faith Deposit**

- (i) All Good Faith Deposits shall be held in an interest-bearing account until returned to the applicable Bidder or otherwise dealt with in accordance with this Section 13;
- (ii) Good Faith Deposits of all Bidders who are determined not to be Qualified Bidders shall be returned to such Bidders two (2) business days after the day on which the Bidder is notified that it is not a Qualified Bidder;
- (iii) Good Faith Deposits of all Qualified Bidders other than the Winning Bidder(s) and the Back-Up Bidder(s) shall be returned to such Qualified Bidders two (2) business days after the day on which one or more Winning Bidders is selected;
- (iv) The Good Faith Deposit(s) of the Winning Bidder(s) shall be applied to the purchase price of such transaction(s) at closing. If the Winning Bid(s) fail(s) to close by the Termination Date because of a breach or failure to perform on the part of the Winning Bidder(s), the Receiver shall be entitled to retain the Good Faith Deposit of the applicable Winning Bidder(s) as part of its damages resulting from the breach or failure to perform by the applicable Winning Bidder(s). The Good Faith Deposit of the Winning Bidder(s) shall otherwise be returned to the Winning Bidder(s) in accordance with the terms of the Winning Bid(s);
- (v) If the Back-Up Bid(s) has/have not been deemed to be a Winning Bid(s), the Good Faith Deposit(s) of the Back-Up Bidder(s) shall be returned to the Back-Up Bidder(s) as soon as practicable after the earlier of: (a) the closing of the transaction(s) contemplated by the Winning Bid(s); (b) the date on which the Receiver provides written notice to the Back-Up Bidder(s) that the Receiver will not elect to complete the transaction(s) contemplated by the Back-Up Bid(s); and (c) the Termination Date; and
- (vi) If a Back-Up Bid is deemed to be a Winning Bid, the Good Faith Deposit of such Back-Up Bidder shall be applied to the purchase price of such transaction at closing. If a Back-Up Bid fails to close by the Termination Date because of a breach or failure to perform on the part of such Back-Up Bidder, the Receiver shall be entitled to retain the Good Faith Deposit of such Back-Up Bidder as part of its damages resulting from the breach or failure to perform by such Back-Up Bidder. The Good Faith Deposit of a Back-Up Bidder shall otherwise be returned to the applicable Back-Up Bidder in accordance with the terms of its Back-Up Bid.

**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

Commercial List File No. CV-15-11198-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto**

**ORDER  
(Stalking Horse and Sales Process)**

**GOLDMAN SLOAN NASH & HABER LLP**  
480 University Avenue, Suite 1600  
TORONTO, ON M5G 1V2  
Fax: 416-597-3370

**Mario Forte** (LSUC #: 27293F)  
Tel: 416-597-6477  
Email: forte@gsnh.com

**Sanja Sopic** (LSUC #: 66487P)  
Tel: 416-597-7876  
Email: sopic@gsnh.com

Lawyers for Richter Advisory Group Inc., in its capacity as  
the Court appointed Receiver of Elementa Group Inc.

TAB D

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

THE HONOURABLE )  
JUSTICE CONWAY ) DAY OF TUESDAY, THE 5<sup>th</sup> <sup>bc</sup>  
APRIL , 2016



IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.

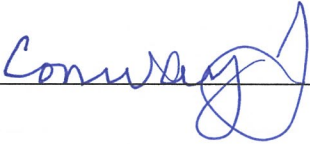
**ORDER**

**THIS MOTION**, made by Richter Advisory Group Inc. ("**Richter**") in its capacity as the Court-appointed Receiver (in such capacity, the **Receiver**"), without security, of all the assets, undertakings and properties (collectively, the **Property**) of Elementa Group Inc. ( "**Elementa**") for advice and directions of this Honourable Court as to the nature and effect of a certain agreement among Elementa, Northguard Capital Corp. ("**Northguard**"), Elementa SSM Inc. ("**SSM**"), and Andrew Ferri ("**Ferri**") made April 30, 2013 purporting to effect certain transactions in respect of the assets of Elementa (the "**April 2013 Agreement**") was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Second Report of the Receiver and appendices thereto and the Factum and Authorities of the Receiver, and on hearing the submissions of counsel for the Receiver, counsel for Ferri and counsel for Bennett Jones LLP, David Elmaleh appearing for the Independent Electricity System Operator (the "**IESO**"), no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Sanja Sopic sworn March 30, 2016, filed.

1. **THIS COURT ORDERS** that the time for service and filing of the Receiver's Notice of Motion and the Motion Record is hereby abridged and service thereof is hereby validated so that this motion is properly returnable today and further service thereof is hereby dispensed with.

2. **THIS COURT ORDERS AND DECLARES** that the April 2013 Agreement is an agreement to which the *Personal Property Security Act*, R.S.O. 1990, c. P.10 (the “PPSA”) applies.
3. **THIS COURT ORDERS** that the Property of Elementa may be vested free and clear of the interests of any nature and kind created by the April 2013 Agreement ( the “Interests”).
4. **THIS COURT FURTHER ORDERS** that the Receiver is entitled to seek a vesting order to give effect to and to complete its pending sale of Elementa to Bradam Canada Inc. free and clear of the Interests.
5. **THIS COURT ORDERS** that the parties reserve their rights to provide written argument as to their respective entitlement, if any, to costs on this motion to a later time.

  
\_\_\_\_\_

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

APR 05 2016

PER / PAR:



**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

Commercial List File No. CV-15-11198-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto**

**ORDER  
(Motion for Advice and Directions)**

**GOLDMAN SLOAN NASH & HABER LLP**  
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**Mario Forte** (LSUC #: 27293F)  
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Tel: 416-597-7876  
Email: sopic@gsnh.com

Lawyers for Richter Advisory Group Inc., in its capacity as  
the Court appointed Receiver of Elementa Group Inc.

# T A B L E

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

THE HONOURABLE *Madam* ) FRIDAY, THE 15<sup>TH</sup>  
JUSTICE *Swinton* ) DAY OF APRIL, 2016  
)



IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.

**APPROVAL AND VESTING ORDER**

THIS MOTION, made by Richter Advisory Group Inc. ("Richter") in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of Elementa Group Inc. ("Elementa") approving the designation of the agreement of purchase and sale between the Receiver and Bradam Canada Inc. (the "Purchaser") dated February 12 2016 appended to the Third Report of the Receiver dated April 8, 2016 (the "Report"), (the "Sale Agreement") as a Winning Bid pursuant to the order of Madam Justice Conway made February 19, 2016 (the "Sale Process Order"), and vesting Elementa's and its affiliates' right, title and interest in and to the assets described in the Sale Agreement as designated by the Purchaser (the "Purchased Assets") in the Purchaser, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, counsel for Bennett Jones LLP, counsel for the Independent Electricity System Operator, no one appearing for any other person on the service list, although properly served as appears from the



affidavit of Sanja Sopic sworn April 8, 2016 filed, and upon being advised that the Purchaser has designated Bradam Group LLC to be the beneficiary of the vesting ("BradamCo");

1. THIS COURT ORDERS that the time for service and filing of the Receiver's Notice of Motion and the Motion Record is hereby abridged and service thereof is hereby validated so that this motion is properly returnable today and further service thereof is hereby dispensed with.

2. THIS COURT ORDERS that the Sale Agreement and its designation as the Winning Bid pursuant to the terms of the Sale Process Order be and are hereby approved and the Receiver is hereby authorised and directed to execute such documents, transfers and conveyances necessary to complete the transactions contemplated in the Sale Agreement and to properly convey the Purchased Assets to BradamCo in accordance with the Sale Agreement, including the transfer and conveyance of such units and shares in Elementa Holdings Ltd ("EHL"), Elementa Algoma Inc. ("EAI") and Elementa Algoma LP ("LP") as designated by the Purchaser.

3. THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver's Certificate"), all of Elementa's and LP's, EHL's and EAI's right, title and interest, respectively in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in BradamCo, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise contractual rights, licences or similar contractual entitlements of any nature or kind (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Hainey dated December 21, 2015; and, (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) on Schedule B hereto or any other personal property registry system; (collectively referred to as the "Encumbrances"), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead

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

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

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

7. THIS COURT ORDERS that, notwithstanding:

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

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

provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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

9. THIS COURT ORDERS that, notwithstanding the provisions of Section 171(3) of the *Business Corporations Act* (Ontario) (the "OBCA"), the Receiver be and is hereby authorized and directed to complete, execute and file articles of amendment for and on behalf of Elementa and any officer and director of Elementa (such articles of amendment to be deemed to have been signed by a director or an officer of Elementa and executed in accordance with the OBCA when so signed by the Receiver as directed by this Court) for the sole purpose of changing the corporate name of Elementa to a corporate name that does not include the word "Elementa" (and such amendment shall be deemed to have been duly authorized by Section 168 and 170 of the OBCA (as applicable) without shareholder or director resolution approving such amendment being required) and this Court hereby directs the Director (as defined in the OBCA) to endorse thereon a certificate of amendment upon being in receipt from the Receiver of two duplicate originals of such articles of amendment together with the prescribed fees and any other required documents under the OBCA (which the Receiver be and is hereby also authorized and directed to complete, execute and file for and on behalf of Elementa and any officer and director of Elementa if and as required) except for any such documents as have been dispensed or otherwise dealt with pursuant to the deeming provisions contained herein.

10. 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.

ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

APR 15 2016

  
\_\_\_\_\_

**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-15-11198-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Hainey of the Ontario Superior Court of Justice (the "Court") made December 21, 2015, Richter Advisory Group Inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of Elementa Group Inc. ("Elementa").

B. Pursuant to an Order of the Court dated April 15, 2016, the Court approved the designation of the agreement of purchase and sale made as of February 12, 2016 (the "Sale Agreement") between the Receiver and Bradam Canada Inc. (the "Purchaser") as the Winning Bid and provided for the vesting in the Purchaser of Elementa’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section 6 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section 6 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at Toronto on April \_\_\_\_\_, 2016.

**RICHTER ADVISORY GROUP INC., in its  
capacity as Receiver of the undertaking,  
property and assets of Elementa Group Inc.,  
and not in its personal capacity**

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

**Schedule B – PPSA Registrations**



**Search Results**  
**ID=3388353**

CORPORATE SERVICES LTD.

Current: 14/04/2016 08:05:57  
Submitted: 14/04/2016 08:02:29  
Completed 14/04/2016 08:05:08

**Your Ref No. ESCWEB3388353**

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PSSME01 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 ENQUIRY REQUEST 08:08:04

FILE CURRENCY 13APR 2016  
CHANGE ACCOUNT (Y/N) : N ACCOUNT NUMBER : 009313 0001 ACCOUNT CODE : ESCVFDE

SEARCH TYPE (BD,IN,IS,MV) : BD  
SEARCH CRITERIA : ELEMENTA GROUP INC.

SUB-SEARCH

RETRIEVE REGISTRATIONS RECORDED SINCE (DDMMYYYY) :  
RESPONSE TYPE (V,P) : V RESPONSE LANGUAGE (E,F) : E PICK-UP CODE :  
RESPONSE MAILING ADDRESS  
NAME :  
:  
ADDRESS :  
CITY : PROV :  
POSTAL CODE :  
PRINT RESPONSE LOCALLY (Y/N) : N

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PSSME19            PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM            04/14/2016  
TIP73511            RESPONSE SUMMARY/HIGH VOLUME            08:08:05  
ACCOUNT : 009313-0001  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

RESPONSE CONTAINS : APPROXIMATELY    5 FAMILIES    8 PAGES

- FOR VERBAL RESPONSE, ENTER "V" IN RESPONSE TYPE.
- TO REQUEST A PRINT-OUT, ENTER "P" IN RESPONSE TYPE AND FILL IN THE MISSING INFORMATION.
- TO TERMINATE THE ENQUIRY, ENTER "CANCEL" IN THE NAME LINE.

RESPONSE TYPE : V            RESPONSE LANGUAGE (E,F) : E    PICK-UP CODE : \_\_\_\_\_

RESPONSE MAILING ADDRESS

NAME : \_\_\_\_\_

ADDRESS : \_\_\_\_\_

CITY : \_\_\_\_\_ PROV : \_\_\_\_\_

POSTAL CODE : \_\_\_\_\_

PRINT RESPONSE LOCALLY (Y/N) : N

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:06  
ACCOUNT : 009313-0001 FAMILY : 1 OF 5 ENQUIRY PAGE : 1 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 696812553 EXPIRY DATE : 05JUN 2019 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 002 MV SCHEDULE ATTACHED :  
REG NUM : 20140605 0927 1862 3349 REG TYP: P PPSA REG PERIOD: 5  
02 IND DOB : IND NAME:  
03 BUS NAME: ELEMENTA GROUP INC.

OCN :  
04 ADDRESS : 509 GLENDALE AVE. EAST SUITE 302  
CITY : NIAGARA-ON-THE-LAKE PROV: ON POSTAL CODE: L0S 1J0  
05 IND DOB : IND NAME:  
06 BUS NAME:

OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
BENNETT JONES LLP

09 ADDRESS : 3400 ONE FIRST CANADIAN PLACE, P.O. BOX  
CITY : TORONTO PROV: ON POSTAL CODE: M5X 1A4  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: BENNETT JONES LLP (SG/DS)  
17 ADDRESS : 3400 1 FIRST CANADIAN PLACE P.O. BOX 130  
CITY : TORONTO PROV: ONT POSTAL CODE: M5X 1A4

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:09  
ACCOUNT : 009313-0001 FAMILY : 1 OF 5 ENQUIRY PAGE : 2 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 696812553 EXPIRY DATE : 05JUN 2019 STATUS :  
01 CAUTION FILING : PAGE : 002 OF 002 MV SCHEDULE ATTACHED :  
REG NUM : 20140605 0927 1862 3349 REG TYP: REG PERIOD:

02 IND DOB : IND NAME:  
03 BUS NAME:

OCN :

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CITY : PROV: POSTAL CODE:

05 IND DOB : IND NAME:  
06 BUS NAME:

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07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS : 130  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

10 YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT:  
17 ADDRESS :  
CITY : PROV: POSTAL CODE:

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:11  
ACCOUNT : 009313-0001 FAMILY : 2 OF 5 ENQUIRY PAGE : 3 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 698096322 EXPIRY DATE : 17JUL 2019 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 001 MV SCHEDULE ATTACHED :  
REG NUM : 20140717 1127 1031 4420 REG TYP: P PPSA REG PERIOD: 05  
02 IND DOB : IND NAME:  
03 BUS NAME: ELEMENTA GROUP INC.

OCN :  
04 ADDRESS : 509 GLENDALE AVE UNIT 302  
CITY : NIAGARA ON THE LAKE PROV: ON POSTAL CODE: L0S 1J0  
05 IND DOB : IND NAME:  
06 BUS NAME:

OCN :  
07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
HER MAJESTY IN RIGHT OF ONTARIO REPRESENTED BY THE MINISTER OF FINANCE

09 ADDRESS : 400-130 DUFFERIN AVENUE,  
CITY : LONDON PROV: ON POSTAL CODE: N6A 6G8

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16 AGENT: MINISTRY OF FINANCE, AM & COLLECTIONS BRANCH, EHT BN#899366603 248/746  
17 ADDRESS : 400-130 DUFFERIN AVENUE,  
CITY : LONDON PROV: ON POSTAL CODE: N6A 6G8

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:14  
ACCOUNT : 009313-0001 FAMILY : 3 OF 5 ENQUIRY PAGE : 4 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 700609284 EXPIRY DATE : 10OCT 2019 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 3 MV SCHEDULE ATTACHED :  
REG NUM : 20141010 1024 1590 1821 REG TYP: P PPSA REG PERIOD: 5  
02 IND DOB : IND NAME:  
03 BUS NAME: ELEMENTA GROUP INC.

OCN : 002021929

04 ADDRESS : 509 GLENDALE EAST  
CITY : NIAGARA-ON-THE-LAKE PROV: ON POSTAL CODE: L0S 1J0  
05 IND DOB : IND NAME:  
06 BUS NAME:

OCN :

07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
2124732 ONTARIO INC.

09 ADDRESS : 37 PINE RIDGE AVENUE  
CITY : WOODBRIDGE PROV: ON POSTAL CODE: L4L 2H8  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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YEAR MAKE MODEL V.I.N.

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16 AGENT: LOOPSTRA NIXON LLP / REXLAW  
17 ADDRESS : 600 - 135 QUEENS PLATE DRIVE  
CITY : ETOBICOKE PROV: ON POSTAL CODE: M9W 6V7

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:16  
ACCOUNT : 009313-0001 FAMILY : 3 OF 5 ENQUIRY PAGE : 5 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 700609284 EXPIRY DATE : 10OCT 2019 STATUS :  
01 CAUTION FILING : PAGE : 002 OF 3 MV SCHEDULE ATTACHED :  
REG NUM : 20141010 1024 1590 1821 REG TYP: REG PERIOD:

02 IND DOB : IND NAME:  
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CITY : PROV: POSTAL CODE:

05 IND DOB : IND NAME:  
06 BUS NAME:

OCN :

07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
GARY BLOKHUIS

09 ADDRESS : 37 PINE RIDGE AVENUE  
CITY : WOODBRIDGE PROV: ON POSTAL CODE: L4L 2H8  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

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16 AGENT:

17 ADDRESS :  
CITY : PROV: POSTAL CODE:

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:18  
ACCOUNT : 009313-0001 FAMILY : 3 OF 5 ENQUIRY PAGE : 6 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 700609284 EXPIRY DATE : 10OCT 2019 STATUS :  
01 CAUTION FILING : PAGE : 003 OF 3 MV SCHEDULE ATTACHED :  
REG NUM : 20141010 1024 1590 1821 REG TYP: REG PERIOD:

02 IND DOB : IND NAME:  
03 BUS NAME:

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04 ADDRESS :  
CITY : PROV: POSTAL CODE:

05 IND DOB : IND NAME:  
06 BUS NAME:

OCN :

07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
GARY BLOKHUIS D.B.A BLOKHUIS HOLDINGS

09 ADDRESS : 37 PINE RIDGE AVENUE  
CITY : WOODBRIDGE PROV: ON POSTAL CODE: L4L 2H8  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

10 YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT:  
17 ADDRESS :  
CITY : PROV: POSTAL CODE:

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:21  
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FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 702487854 EXPIRY DATE : 19DEC 2019 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
REG NUM : 20141219 1427 6083 0289 REG TYP: P PPSA REG PERIOD: 5  
02 IND DOB : IND NAME:  
03 BUS NAME: ELEMENTA GROUP INC.

OCN : 2021929

04 ADDRESS : 509 GLENDALE AVENUE  
CITY : NIAGARA ON THE LAKE PROV: ON POSTAL CODE: L0S 1J0  
05 IND DOB : IND NAME:  
06 BUS NAME: ENQUEST POWER CORPORATION

OCN : 2021929

07 ADDRESS : 509 GLENDALE AVENUE  
CITY : NIAGARA ON THE LAKE PROV: ON POSTAL CODE: L0S 1J0

08 SECURED PARTY/LIEN CLAIMANT :  
SHARON D'AMICO

09 ADDRESS : 7 PICKWICK PLACE  
CITY : FONTHILL PROV: ON POSTAL CODE: L0S 1E0  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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16 AGENT: ESC CORPORATE SERVICES LTD.

17 ADDRESS : 445 KING STREET WEST, 4TH FL  
CITY : TORONTO PROV: ON POSTAL CODE: M5V 1K4

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:23  
ACCOUNT : 009313-0001 FAMILY : 5 OF 5 ENQUIRY PAGE : 8 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 702487881 EXPIRY DATE : 19DEC 2019 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
REG NUM : 20141219 1429 6083 0290 REG TYP: P PPSA REG PERIOD: 5  
02 IND DOB : IND NAME:  
03 BUS NAME: ELEMENTA GROUP INC.

OCN : 2021929

04 ADDRESS : 509 GLENDALE AVENUE  
CITY : NIAGARA ON THE LAKE PROV: ON POSTAL CODE: L0S 1J0  
05 IND DOB : IND NAME:  
06 BUS NAME: ENQUEST POWER CORPORATION

OCN : 2021929

07 ADDRESS : 509 GLENDALE AVENUE  
CITY : NIAGARA ON THE LAKE PROV: ON POSTAL CODE: L0S 1J0

08 SECURED PARTY/LIEN CLAIMANT :  
DAVID D'AMICO

09 ADDRESS : 7 PICKWICK PLACE  
CITY : FONTHILL PROV: ON POSTAL CODE: L0S 1E0  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: ESC CORPORATE SERVICES LTD.

17 ADDRESS : 445 KING STREET WEST, 4TH FL  
CITY : TORONTO PROV: ON POSTAL CODE: M5V 1K4

LAST SCREEN



PSSME01  
TIP73511

PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM  
ENQUIRY REQUEST

04/14/2016  
08:08:26

FILE CURRENCY 13APR 2016  
CHANGE ACCOUNT (Y/N) : ACCOUNT NUMBER : 009313 0001 ACCOUNT CODE : ESCVFDE

SEARCH TYPE (BD,IN,IS,MV) :  
SEARCH CRITERIA :

SUB-SEARCH

RETRIEVE REGISTRATIONS RECORDED SINCE (DDMMYYYY) :  
RESPONSE TYPE (V,P) : V RESPONSE LANGUAGE (E,F) : E PICK-UP CODE :  
RESPONSE MAILING ADDRESS  
NAME :  
ADDRESS :  
CITY : PROV :  
POSTAL CODE :  
PRINT RESPONSE LOCALLY (Y/N) : N  
ENQUIRY FOR "ELEMENTA GROUP INC." ENDED

**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

Commercial List File No. CV-15-11198-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto**

**APPROVAL AND VESTING ORDER**

**GOLDMAN SLOAN NASH & HABER LLP**

480 University Avenue, Suite 1600

TORONTO, ON M5G 1V2

Fax: 416-597-3370

**Mario Forte** (LSUC #: 27293F)

Tel: 416-597-6477

Email: forte@gsnh.com

**Sanja Sopic** (LSUC #: 66487P)

Tel: 416-597-7876

Email: sopic@gsnh.com

Lawyers for Richter Advisory Group Inc., in its capacity as  
the Court appointed Receiver of Elementa Group Inc.

**T A B F**

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)



THE HONOURABLE MR.  
JUSTICE NEWBOULD

)  
)  
)

FRIDAY, THE 13<sup>TH</sup>  
DAY OF MAY, 2016

IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.

**AMENDED AND RESTATED APPROVAL AND VESTING ORDER**

THIS MOTION, made by Richter Advisory Group Inc. ("Richter") in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of Elementa Group Inc. ("Elementa") approving the designation of the agreement of purchase and sale between the Receiver and Bradam Canada Inc. (the "Purchaser") dated February 12, 2016 appended to the Third Report of the Receiver dated April 8, 2016 (the "Report"), (the "Sale Agreement") as a Winning Bid pursuant to the order of Madam Justice Conway made February 19, 2016 (the "Sale Process Order"), and vesting Elementa's and its affiliates' right, title and interest in and to the assets described in the Sale Agreement as designated by the Purchaser (the "Purchased Assets") in the Purchaser, was heard on April 15, 2016 at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, counsel for Bennett Jones LLP, counsel for the Independent Electricity System Operator, no one appearing for any other person on the service list, although properly served as appears from the

affidavit of Sanja Sopic sworn April 8, 2016 filed, and upon being advised that the Purchaser has designated Bradam Group LLC to be the beneficiary of the vesting (“BradamCo”);

AND ON READING the Fourth Report of the Receiver dated May 5, 2016, and hearing the submissions of counsel for the Receiver on the motion to amend and restate the Approval and Vesting Order dated April 15, 2016, to permit the Receiver to accept a promissory note in the principal amount of \$275,000 substantially in the form filed (the “Promissory Note”), no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Sanja Sopic sworn May 11, 2016, filed;

1. THIS COURT ORDERS that the time for service and filing of the Receiver’s Notice of Motion and the Motion Record is hereby abridged and service thereof is hereby validated so that this motion is properly returnable today and further service thereof is hereby dispensed with.

2. THIS COURT ORDERS that the Sale Agreement and its designation as the Winning Bid pursuant to the terms of the Sale Process Order be and are hereby approved and the Receiver is hereby authorised and directed to execute such documents, transfers and conveyances necessary to complete the transactions contemplated in the Sale Agreement and to properly convey the Purchased Assets to BradamCo in accordance with the Sale Agreement, including the transfer and conveyance of such units and shares in Elementa Holdings Ltd (“EHL”), Elementa Algoma Inc. (“EAI”) and Elementa Algoma LP (“LP”) as designated by the Purchaser.

3. THIS COURT ORDERS that, in satisfaction of a portion of the Purchase Price for the Purchased Assets, the Receiver be and hereby is authorized to accept the Promissory Note.

4. THIS COURT ORDERS that as security for the payment and performance of the obligations under the Promissory Note, the Receiver shall be entitled to the benefit of and is hereby granted a charge (the “Receiver’s Charge”) on the Purchased Assets, which charge shall not exceed an aggregate principal amount of \$275,000.00.

5. THIS COURT ORDERS that the filing, registration or perfection of the Receiver’s Charge shall not be required, and that the Receiver’s Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Receiver’s Charge coming into existence, notwithstanding any such failure to file, register, record or perfect.

6. THIS COURT ORDERS that the Receiver's Charge shall constitute a charge on the Purchased Assets and such the Receiver's Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person.

7. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, neither BradamCo nor the Purchaser shall grant any Encumbrances over any Purchased Assets that rank in priority to, or *pari passu* with the Receiver's Charge without the prior written consent of the Receiver, or further Order of this Court.

8. THIS COURT ORDERS that the Receiver's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Receiver thereunder shall not otherwise be limited or impaired in any way by (a) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (b) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (c) the provisions of any federal or provincial statutes; or (d) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds BradamCo or the Purchaser, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Receiver's Charge shall not create or be deemed to constitute a breach by BradamCo or the Purchaser of any Agreement to which it is a party;
- (b) the Receiver shall have no liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Receiver's Charge; and
- (c) the payments made by BradamCo and/or the Purchaser pursuant to this Order and the granting of the Receiver's Charge does not and will not constitute a preference, fraudulent conveyance, transfer at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

9. THIS COURT ORDERS that any charge created by this Order over leases of real property in Canada shall only be a charge in the Purchaser's interest in such real property leases.

10. THIS COURT ORDERS that upon receipt of the Promissory Note, the Receiver shall deliver the Receiver's certificate, substantially in the form attached as Schedule A hereto (the "Receiver's Certificate") to the Purchaser, and upon delivery of the Receiver's Certificate all of Elementa's and LP's, EHL's and EAI's right, title and interest, respectively in and to the Purchased Assets described in the Sale Agreement shall vest absolutely in BradamCo, free and clear of and from any and all security interests other than the Receiver's Charge (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise contractual rights, licences or similar contractual entitlements of any nature or kind (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Hainey dated December 21, 2015; and, (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) on Schedule B hereto or any other personal property registry system; (collectively referred to as the "Encumbrances"), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets other than the Receiver's Charge are hereby expunged and discharged as against the Purchased Assets.

11. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) the Receiver may, but is not required to take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the Receiver's Charge;
- (b) upon the failure to pay any amounts owing under the Promissory Note or a breach of paragraph 7 of this Order, the Receiver, upon 1 days' notice to BradamCo and the Purchaser, may exercise any and all of its rights and remedies against BradamCo or the Purchaser or the Purchased Assets under or pursuant to the Promissory Note and the Receiver's Charge, including without limitation, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against BradamCo or the Purchaser and for the appointment of a trustee in bankruptcy of BradamCo or the Purchaser; and
- (c) the foregoing rights and remedies of the Receiver shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the BradamCo or the Purchaser or the Purchased Assets.

12. THIS COURT ORDERS that the Receiver shall have the authority to transfer the Receiver's Charge and Promissory Note to an assignee pursuant to a distribution Order of this Court.

13. THIS COURT ORDERS that any assignee of the Receiver's Charge and Promissory Note shall be entitled to exercise all of the rights and remedies of the Receiver as against BradamCo, the Purchaser or the Purchased Assets, as set out in paragraph 11, as if it were the Receiver.

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

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

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

17. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;



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

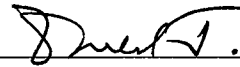
the vesting of the Purchased Assets in BradamCo pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of Elementa and shall not be void or voidable by creditors of Elementa, nor shall it constitute nor be deemed to be a fraudulent preference, assignment,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

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

19. THIS COURT ORDERS that, notwithstanding the provisions of Section 171(3) of the *Business Corporations Act* (Ontario) (the "OBCA"), the Receiver be and is hereby authorized and directed to complete, execute and file articles of amendment for and on behalf of Elementa and any officer and director of Elementa (such articles of amendment to be deemed to have been signed by a director or an officer of Elementa and executed in accordance with the OBCA when so signed by the Receiver as directed by this Court) for the sole purpose of changing the corporate name of Elementa to a corporate name that does not include the word "Elementa" (and such amendment shall be deemed to have been duly authorized by Section 168 and 170 of the OBCA (as applicable) without shareholder or director resolution approving such amendment being required) and this Court hereby directs the Director (as defined in the OBCA) to endorse thereon a certificate of amendment upon being in receipt from the Receiver of two duplicate originals of such articles of amendment together with the prescribed fees and any other required documents under the OBCA (which the Receiver be and is hereby also authorized and directed to complete, execute and file for and on behalf of Elementa and any officer and director of

Elementa if and as required) except for any such documents as have been dispensed or otherwise dealt with pursuant to the deeming provisions contained herein.

20. 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.



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ENTERED AT / INSCRIT À TORONTO  
ON / BOOK NO:  
LE / DANS LE REGISTRE NO:

MAY 13 2016

PER / PAR: 

**Schedule A – Form of Receiver’s Certificate**

Court File No. CV-15-11198-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

**RECEIVER’S CERTIFICATE**

**RECITALS**

A. Pursuant to an Order of the Honourable Justice Haaney of the Ontario Superior Court of Justice (the "Court") made December 21, 2015, Richter Advisory Group Inc. was appointed as the receiver (the "Receiver") of the undertaking, property and assets of Elementa Group Inc. ("Elementa").

B. Pursuant to an Order of the Court dated April 15, 2016, as amended and Restated on May , 2016, the Court approved the designation of the agreement of purchase and sale made as of February 12, 2016 (the "Sale Agreement") between the Receiver and Bradam Canada Inc. (the "Purchaser") as the Winning Bid and provided for the vesting in the Purchaser of Elementa’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment of \$1,225,000.00 for the Purchased Assets, (ii) that the Purchaser has delivered the Promissory Note in the amount of \$275,000.00 to the Receiver, representing the balance of the Purchase Price for the Purchased Assets; (iii) that the conditions to Closing as set out in section 6 of the Sale Agreement have been satisfied or waived by the

Receiver and the Purchaser; and (iv) the Transaction has been completed to the satisfaction of the Receiver.

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

THE RECEIVER CERTIFIES the following:

1. The Receiver has received \$1,225,000.00 from the Purchaser toward the payment of the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The Receiver has received a Promissory Note from the Purchaser in the amount of \$275,000.00, representing the balance of the Purchase Price for the Purchased Assets;
3. The conditions to Closing as set out in section 6 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
4. The Transaction has been completed to the satisfaction of the Receiver.
5. This Certificate was delivered by the Receiver at Toronto on May , 2016.

**RICHTER ADVISORY GROUP INC., in its  
capacity as Receiver of the undertaking,  
property and assets of Elementa Group Inc.,  
and not in its personal capacity**

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

Name:

Title:

**Schedule B – PPSA Registrations**



PSSME19            PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM            04/14/2016  
TIP73511            RESPONSE SUMMARY/HIGH VOLUME            08:08:05  
ACCOUNT : 009313-0001  
FILE CURRENCY : 13APR 2016  
SEARCH ; BD : ELEMENTA GROUP INC.

RESPONSE CONTAINS : APPROXIMATELY    5 FAMILIES        8 PAGES

- FOR VERBAL RESPONSE, ENTER "V" IN RESPONSE TYPE.
- TO REQUEST A PRINT-OUT, ENTER "P" IN RESPONSE TYPE AND FILL IN THE MISSING INFORMATION.
- TO TERMINATE THE ENQUIRY, ENTER "CANCEL" IN THE NAME LINE.

RESPONSE TYPE    : V            RESPONSE LANGUAGE (E,F) : E    PICK-UP CODE : \_\_\_\_  
RESPONSE MAILING ADDRESS  
NAME            : \_\_\_\_\_  
ADDRESS        : \_\_\_\_\_  
CITY            : \_\_\_\_\_            PROV : \_\_\_\_  
POSTAL CODE    : \_\_\_\_\_  
PRINT RESPONSE LOCALLY (Y/N) : N

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:06  
ACCOUNT : 009313-0001 FAMILY : 1 OF 5 ENQUIRY PAGE : 1 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 696812553 EXPIRY DATE : 05JUN 2019 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 002 MV SCHEDULE ATTACHED :  
REG NUM : 20140605 0927 1862 3349 REG TYP: P PPSA REG PERIOD: 5  
02 IND DOB : IND NAME:  
03 BUS NAME: ELEMENTA GROUP INC.

04 ADDRESS : 509 GLENDALE AVE. EAST SUITE 302 OCN :  
CITY : NIAGARA-ON-THE-LAKE PROV: ON POSTAL CODE: LOS 1J0  
05 IND DOB : IND NAME:  
06 BUS NAME:

07 ADDRESS : OCN :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
BENNETT JONES LLP

09 ADDRESS : 3400 ONE FIRST CANADIAN PLACE, P.O. BOX  
CITY : TORONTO PROV: ON POSTAL CODE: M5X 1A4  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

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YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: BENNETT JONES LLP (SG/DS)

17 ADDRESS : 3400 1 FIRST CANADIAN PLACE P.O. BOX 130  
CITY : TORONTO PROV: ONT POSTAL CODE: M5X 1A4

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:09  
ACCOUNT : 009313-0001 FAMILY : 1 OF 5 ENQUIRY PAGE : 2 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 696812553 EXPIRY DATE : 05JUN 2019 STATUS :  
01 CAUTION FILING : PAGE : 002 OF 002 MV SCHEDULE ATTACHED :  
REG NUM : 20140605 0927 1862 3349 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:

04 ADDRESS : OCN :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:

07 ADDRESS : OCN :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :

09 ADDRESS : 130  
CITY : PROV: POSTAL CODE:  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY, EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

10 YEAR MAKE MODEL V.I.N.

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16 AGENT:

17 ADDRESS :  
CITY : PROV: POSTAL CODE:

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:11  
ACCOUNT : 009313-0001 FAMILY : 2 OF 5 ENQUIRY PAGE : 3 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 698096322 EXPIRY DATE : 17JUL 2019 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 001 MV SCHEDULE ATTACHED :  
REG NUM : 20140717 1127 1031 4420 REG TYP: P PPSA REG PERIOD: 05  
02 IND DOB : IND NAME:  
03 BUS NAME: ELEMENTA GROUP INC.

04 ADDRESS : 509 GLENDALE AVE UNIT 302 OCN :  
CITY : NIAGARA ON THE LAKE PROV: ON POSTAL CODE: L0S 1J0  
05 IND DOB : IND NAME:  
06 BUS NAME:

07 ADDRESS : OCN :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
HER MAJESTY IN RIGHT OF ONTARIO REPRESENTED BY THE MINISTER OF FINANCE

09 ADDRESS : 400-130 DUFFERIN AVENUE,  
CITY : LONDON PROV: ON POSTAL CODE: N6A 6G8  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X X X X 31497  
YEAR MAKE MODEL V.I.N.

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16 AGENT: MINISTRY OF FINANCE, AM & COLLECTIONS BRANCH, EHT BN#899366603 248/746

17 ADDRESS : 400-130 DUFFERIN AVENUE,  
CITY : LONDON PROV: ON POSTAL CODE: N6A 6G8

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:14  
ACCOUNT : 009313-0001 FAMILY : 3 OF 5 ENQUIRY PAGE : 4 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 700609284 EXPIRY DATE : 10OCT 2019 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 3 MV SCHEDULE ATTACHED :  
REG NUM : 20141010 1024 1590 1821 REG TYP: P PPSA REG PERIOD: 5  
02 IND DOB : IND NAME:  
03 BUS NAME: ELEMENTA GROUP INC.

OCN : 002021929

04 ADDRESS : 509 GLENDALE EAST  
CITY : NIAGARA-ON-THE-LAKE PROV: ON POSTAL CODE: L0S 1J0  
05 IND DOB : IND NAME:  
06 BUS NAME:

OCN :

07 ADDRESS :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
2124732 ONTARIO INC.

09 ADDRESS : 37 PINE RIDGE AVENUE  
CITY : WOODBRIDGE PROV: ON POSTAL CODE: L4L 2H8  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
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YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: LOOPSTRA NIXON LLP / REXLAW

17 ADDRESS : 600 - 135 QUEENS PLATE DRIVE  
CITY : ETOBICOKE PROV: ON POSTAL CODE: M9W 6V7

PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:16  
ACCOUNT : 009313-0001 FAMILY : 3 OF 5 ENQUIRY PAGE : 5 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 700609284 EXPIRY DATE : 10OCT 2019 STATUS :  
01 CAUTION FILING : PAGE : 002 OF 3 MV SCHEDULE ATTACHED :  
REG NUM : 20141010 1024 1590 1821 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:

04 ADDRESS : OCN :  
CITY : PROV: POSTAL CODE:  
05 IND DOB : IND NAME:  
06 BUS NAME:

07 ADDRESS : OCN :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
GARY BLOKHUIS

09 ADDRESS : 37 PINE RIDGE AVENUE  
CITY : WOODBRIDGE PROV: ON POSTAL CODE: L4L 2H8  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

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17 ADDRESS :  
CITY : PROV: POSTAL CODE:

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:18  
ACCOUNT : 009313-0001 FAMILY : 3 OF 5 ENQUIRY PAGE : 6 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 700609284 EXPIRY DATE : 10OCT 2019 STATUS :  
01 CAUTION FILING : PAGE : 003 OF 3 MV SCHEDULE ATTACHED :  
REG NUM : 20141010 1024 1590 1821 REG TYP: REG PERIOD:  
02 IND DOB : IND NAME:  
03 BUS NAME:

04 ADDRESS : OCN :  
CITY : PROV: POSTAL CODE:

05 IND DOB : IND NAME:

06 BUS NAME:

07 ADDRESS : OCN :  
CITY : PROV: POSTAL CODE:

08 SECURED PARTY/LIEN CLAIMANT :  
GARY BLOKHUIS D.B.A BLOKHUIS HOLDINGS

09 ADDRESS : 37 PINE RIDGE AVENUE  
CITY : WOODBRIDGE PROV: ON POSTAL CODE: L4L 2H8  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE

10 YEAR MAKE MODEL V.I.N.

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:21  
ACCOUNT : 009313-0001 FAMILY : 4 OF 5 ENQUIRY PAGE : 7 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH ; BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 702487854 EXPIRY DATE : 19DEC 2019 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
REG NUM : 20141219 1427 6083 0289 REG TYP: P PPSA REG PERIOD: 5  
02 IND DOB : IND NAME:  
03 BUS NAME: ELEMENTA GROUP INC.

04 ADDRESS : 509 GLENDALE AVENUE OCN : 2021929  
CITY : NIAGARA ON THE LAKE PROV: ON POSTAL CODE: LOS 1J0  
05 IND DOB : IND NAME:

06 BUS NAME: ENQUEST POWER CORPORATION

OCN : 2021929

07 ADDRESS : 509 GLENDALE AVENUE  
CITY : NIAGARA ON THE LAKE PROV: ON POSTAL CODE: LOS 1J0

08 SECURED PARTY/LIEN CLAIMANT :  
SHARON D'AMICO

09 ADDRESS : 7 PICKWICK PLACE  
CITY : FONTHILL PROV: ON POSTAL CODE: LOS 1E0  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY, EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X 50000 18DEC2019  
YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: ESC CORPORATE SERVICES LTD.

17 ADDRESS : 445 KING STREET WEST, 4TH FL  
CITY : TORONTO PROV: ON POSTAL CODE: M5V 1K4

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PSSME02 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 DISPLAY 1C REGISTRATION - SCREEN 1 08:08:23  
ACCOUNT : 009313-0001 FAMILY : 5 OF 5 ENQUIRY PAGE : 8 OF 8  
FILE CURRENCY : 13APR 2016  
SEARCH : BD : ELEMENTA GROUP INC.

00 FILE NUMBER : 702487881 EXPIRY DATE : 19DEC 2019 STATUS :  
01 CAUTION FILING : PAGE : 001 OF 1 MV SCHEDULE ATTACHED :  
REG NUM : 20141219 1429 6083 0290 REG TYP: P PPSA REG PERIOD: 5  
02 IND DOB : IND NAME:  
03 BUS NAME: ELEMENTA GROUP INC.

04 ADDRESS : 509 GLENDALE AVENUE OCN : 2021929  
CITY : NIAGARA ON THE LAKE PROV: ON POSTAL CODE: L0S 1J0

05 IND DOB : IND NAME:

06 BUS NAME: ENQUEST POWER CORPORATION OCN : 2021929

07 ADDRESS : 509 GLENDALE AVENUE  
CITY : NIAGARA ON THE LAKE PROV: ON POSTAL CODE: L0S 1J0

08 SECURED PARTY/LIEN CLAIMANT :  
DAVID D'AMICO

09 ADDRESS : 7 PICKWICK PLACE  
CITY : FONTHILL PROV: ON POSTAL CODE: L0S 1E0  
CONS. MV DATE OF OR NO FIXED  
GOODS INVTRY. EQUIP ACCTS OTHER INCL AMOUNT MATURITY MAT DATE  
10 X 50000 18DEC2019  
YEAR MAKE MODEL V.I.N.

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GENERAL COLLATERAL DESCRIPTION

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16 AGENT: ESC CORPORATE SERVICES LTD.

17 ADDRESS : 445 KING STREET WEST, 4TH FL  
CITY : TORONTO PROV: ON POSTAL CODE: M5V 1K4

LAST SCREEN

PSSME01 PERSONAL PROPERTY SECURITY REGISTRATION SYSTEM 04/14/2016  
TIP73511 ENQUIRY REQUEST 08:08:26

FILE CURRENCY 13APR 2016  
CHANGE ACCOUNT (Y/N) : ACCOUNT NUMBER : 009313 0001 ACCOUNT CODE : ESCVPDE

SEARCH TYPE (BD,IN,IS,MV) :  
SEARCH CRITERIA :

SUB-SEARCH

RETRIEVE REGISTRATIONS RECORDED SINCE (DDMMYYYY) :  
RESPONSE TYPE (V,P) : V RESPONSE LANGUAGE (E,F) : E PICK-UP CODE :  
RESPONSE MAILING ADDRESS

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NAME ;  
:  
ADDRESS :  
CITY : PROV :  
POSTAL CODE :  
PRINT RESPONSE LOCALLY (Y/N) : N  
ENQUIRY FOR "ELEMENTA GROUP INC." ENDED



**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

Commercial List File No. CV-15-11198-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto**

**AMENDED AND RESTATED APPROVAL AND  
VESTING ORDER**

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the Court appointed Receiver of Elementa Group Inc.

May 13, 2016

Commercial List File No. CV-15-11198-00CL

IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto

May 13/16

*This is unopposed, order to go.  
Done ✓*

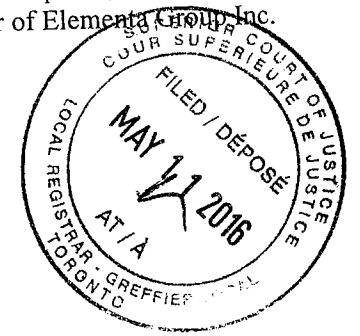
MOTION RECORD OF THE RECEIVER  
(Amended and Restated Approval and Vesting Order)  
Friday May 13, 2016

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TAB G

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**ELEMENTA GROUP INC.**

**FIRST REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS RECEIVER OF  
ELEMENTA GROUP INC.**

**FEBRUARY 16, 2016**

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

IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.

**FIRST REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF THE  
PROPERTIES, ASSETS AND UNDERTAKING OF  
ELEMENTA GROUP INC.**

**February 16, 2016**

## Introduction

1. On November 30, 2015, the Honourable Mr. Justice Hailey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), issued an interim order (the “**Interim Order**”) authorizing Richter Advisory Group Inc. (“**Richter**”) to take possession of Elementa Group Inc.’s (“**Elementa**” or the “**Company**”) computer server and certain boxes containing notes and other records referable to the data on the server (the “**Computer and Other Records**”), on an interim basis, as interim custodian pending the return of the application by Bennett Jones LLP (“**Bennett Jones**”) for the appointment of a receiver over the property, assets and undertakings of Elementa. A copy of the Interim Order is attached as **Appendix “A”** to this report.
2. On December 21, 2015, (the “**Date of Appointment**”), the Court issued an order (the “**Appointment Order**”) appointing Richter as receiver (the “**Receiver**”) pursuant to section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended, (the “**BIA**”) and section 101 of the *Courts of Justice Act* R.S.O. 1990 c. 43, as amended, without security, of all of the properties, assets and undertakings (the “**Property**”) of Elementa. A copy of the Appointment Order is attached as **Appendix “B”** to this report.

## Purpose of this Report

3. This is the first report of the Receiver (the “**First Report**”), the purpose of which is to provide information to this Court in respect of the following:
  - (a) a limited summary of certain background information about Elementa;
  - (b) the activities of Richter and the Receiver subsequent to the granting of the Interim Order and the Appointment Order, respectively;
  - (c) the terms of an Agreement of Purchase and Sale dated February 12, 2016 (the “**Stalking Horse APS**”) between the Receiver and Bradam Canada Inc. (“**Bradam**” or the “**Stalking Horse Bidder**”) for the sale of substantially all of Elementa’s business and assets which, subject to the approval of this Court, would act as the stalking horse sale agreement (the “**Stalking Horse Bid**”);

- (d) the Receiver's proposed process for the sale of the Property (the "**Sales Process**"), including the bidding procedures to be used in connection with the Sales Process;
- (e) the reasons why the Receiver believes that the Stalking Horse Bid and the Sales Process should be approved by this Court; and
- (f) the Receiver's recommendation that this Court make an order(s);
  - (i) approving the Stalking Horse Bid and the Sales Process; and
  - (ii) approving the First Report and the activities of the Receiver as set out therein.

#### **Terms of Reference**

4. In preparing this First Report, the Receiver has relied upon unaudited financial and other information previously prepared by the Company and/or its representatives as well as other information supplied by Bennett Jones, the Company's former management and others (collectively, the "**Information**"). The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided and in consideration of the nature of the evidence provided to this Honourable Court, in relation to the relief being sought herein. The Receiver has not, however, audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the Canadian Institute of Chartered Accountants Handbook and, as such, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
5. The information contained in this First Report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Receiver.
6. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.



## General Background to the Receivership Proceedings

7. Elementa, which was incorporated pursuant to the *Business Corporations Act* (Ontario), is an early stage development company that owns and controls intellectual property rights to a waste conversion process to efficiently and economically convert municipal solid waste into clean synthetic gas, which has properties and utility values similar to natural gas. The synthetic gas and resultant heat can be used to power turbines, engines or fuel cells for the generation of electricity, distilled into ethanol or hydrogen or used as process heat and gas (natural gas replacement). The Company's registered head office is leased premises located at 509 Glendale Avenue E., Suite 302, Niagara-on-the-Lake, Ontario (the "**Premises**").
8. Elementa is the sole limited partner of Elementa Algoma LP, an Ontario limited partnership, whose general partner is Elementa Algoma Inc. The shares of Elementa Algoma Inc. are wholly owned by Elementa Holdings Ltd. and the shares of Elementa Holdings Ltd. are wholly owned by Elementa. A copy of Elementa's corporate chart is attached as **Appendix "C"** to this report.
9. Commencing in or about 2003, the Company began raising capital for the construction of a pilot plant to test and develop a process to convert waste material into a clean energy source in an efficient and cost effective manner. The Company was successful in raising sufficient funds to construct a pilot plant in Sault Ste. Marie, Ontario ("**SSM**"), which facility began processing unsorted municipal solid waste in or about October 2007. The pilot plant, which the Receiver understands underwent third party verification and received Ontario Ministry of Environment and Climate Change approval, provided Elementa the opportunity to both test and optimize various aspects of its proprietary process.
10. Based on the successful results from its pilot plant, Elementa entered into discussions with several municipalities and industrial partners for the construction of full-scale facilities. These discussions culminated in Elementa Algoma LP (the vehicle which would develop the Project, as hereinafter defined) becoming a party to certain contracts in relation to the planned construction of a municipal waste processing facility to produce electricity in SSM (the "**Project**").
11. For the purposes of the Project, Elementa entered into a Waste Supply and Reformation Agreement with the Corporation of the City of Sault Ste. Marie dated October 26, 2009, as amended, assigned and novated from time to time (collectively, the "**Waste Agreement**").

12. Subsequent to entering into the Waste Agreement, Elementa Algoma LP entered into an energy from waste contract for the Project (the “**EFW Contract**”) with the Ontario Power Authority (now the Independent Electricity System Operator (“**IESO**”)) dated December 18, 2013.
13. In addition to the above and notwithstanding its financial difficulties, Elementa also secured the site for the Project by arranging for the purchase of the land for the Project site (the “**Project Lands**”) from the Corporation of the City of Sault Ste. Marie by 2124732 Ontario Inc. (“**212**”), a corporation owned by a shareholder and creditor of Elementa. Following its purchase of the Project Lands, 212 entered into a lease with Elementa Algoma LP for the Project Lands (the “**Lease**”). The Waste Agreement, the EFW Contract and the Lease are collectively referred to herein as the “**SSM Project Contracts**”.
14. The SSM Project Contracts contain certain deadlines for the construction and commercial operation of the Project. Pursuant to one such contract, the construction of the Project must be commenced on or before May 1, 2016. The undertaking to construct the Project required Elementa to raise significant capital (approximately \$50 – \$55 million). Unfortunately, Elementa was unsuccessful in raising sufficient funding to adequately address its capital needs and realize value from the SSM Project Contracts. Ultimately, due to its inability to raise sufficient funds to continue operations and advance the Project, Elementa was forced to lay off its workforce. The employment of the last two employees was terminated on October 6, 2015. As at the Date of Appointment, it was the Receiver’s understanding that Elementa was not an operating business, had no employees and no source of revenue.
15. According to the Company’s most recent internal, unaudited financial statements, as at December 31, 2014, the Property consisted of the following:

<b>Assets</b>	<b>Net Book Value (\$000s)</b>
Cash and Cash Equivalents	15
HST Accounts Receivable	23
Due From Shareholders	150
Sault Ste Marie Commercial Design	865
Fixed Assets	78
<b>Total</b>	<b>1,131</b>

Note: The above amounts represent book values of the Company’s assets as detailed in the Company’s book and records and do not necessarily represent the sale or liquidation value of the Property.

16. As Elementa had no employees or active business operations at the Date of Appointment, the Receiver was forced to rely on the Company's books and records, which were not current or complete, and other available documents to generate a list of Elementa's creditors.
17. According to a search of the Personal Property Security Registration System (Ontario), as at the Date of Appointment, the parties holding security on the Property (collectively, the "**Secured Creditors**") as well as the approximate amount of their respective claims against Elementa, were as follows:

Bennett Jones LLP	\$	3,000,000
Her Majesty in Right of Ontario (Ministry of Finance)		unknown
2124732 Ontario Inc.		unknown
Gary Blokhuis D.B.A. Blokhuis Holdings		unknown
Sharon D'Amico		unknown
David D'Amico		unknown

18. In addition to the amounts owed by Elementa to its Secured Creditors, according to the Company's books and records, Elementa has accrued and unpaid unsecured obligations totaling approximately \$7 million.

#### **Activities of Richter and the Receiver**

19. As noted previously in this First Report, on November 30, 2015, the Court granted the Interim Order which authorized Richter to take possession of Elementa's Computer and Other Records, on an interim basis, pending further order of the Court. On the same date, Richter took possession of the Company's Computer and other Records.
20. Subsequent to the Date of Appointment, the Receiver's activities have included:
  - (a) sending the prescribed notice, in accordance with Sections 245(1) and 246(1) of the BIA, within 10 days of the issuance of the Appointment Order, to all known creditors of the Company;
  - (b) establishing a website at [www.richter.ca/en/insolvency-cases/e/elementa-group-inc](http://www.richter.ca/en/insolvency-cases/e/elementa-group-inc), where all materials filed with the Court, and all orders made by the Court in connection with the receivership proceedings, will be available in electronic form;

- (c) arranging for the closing of Elementa's bank accounts and opening a new bank account under the Receiver's name;
- (d) attending at the Premises, including discussions with the landlord (and its counsel) to, among other things, review and inspect the Premises and take possession of certain of Elementa's books and records and other Property located at the Premises;
- (e) arranging for the redirection of Elementa's mail from the Premises to the Receiver's offices;
- (f) corresponding with third parties, including certain former employees and directors/officers of Elementa, that the Receiver had been advised may have Elementa files/documents or other Elementa assets in their possession;
- (g) communicating with representatives of SSM regarding the Project and other matters in connection with Elementa and the receivership proceedings;
- (h) communicating with representatives of the IESO regarding the EFW Contract and other matters in connection with Elementa and the receivership proceedings;
- (i) communicating with representatives of the Canada Revenue Agency in connection with Elementa and the receivership proceedings;
- (j) communicating with representatives of the Ontario Ministry of the Environment and Climate Change in connection with Elementa and the receivership proceedings;
- (k) communicating with certain prospective purchasers regarding Elementa, the Property, the receivership proceedings and their interest in submitting a stalking horse bid or participating in the Sales Process;
- (l) communicating with counsel for 212 regarding the Project Lands and other matters in connection with the receivership proceedings;
- (m) considering processes to market Elementa's business and/or assets, including developing the Sales Process and negotiating the Stalking Horse Bid;

- (n) preparing the Teaser Letter (as hereinafter defined), the form of Confidentiality Agreement (as hereinafter defined) and the list of prospective purchasers;
- (o) corresponding and communicating with Bennett Jones LLP, Elementa's primary and first-ranking secured creditor;
- (p) responding to calls and enquiries from creditors and other stakeholders regarding Elementa and the receivership proceedings; and
- (q) preparing this First Report.

### **Stalking Horse Bid**

21. The Receiver, Bradam and their respective counsel have negotiated the terms and provisions of the Stalking Horse Bid, a summary of which is as follows (all terms not otherwise defined herein shall have the meanings as defined in the Stalking Horse APS):

- (a) the purchased assets include all assets, undertakings and properties of Elementa, other than the Excluded Assets, acquired for or used in relation to the Company's business. Specifically, the purchased assets include Elementa's shares in Elementa Algoma LP, Elementa Algoma Inc. and Elementa Holdings Ltd. as well as, but not limited to the following:
  - (i) the Inventory;
  - (ii) the Intellectual Property;
  - (iii) the Equipment;
  - (iv) all insurance policies and all claims to proceeds thereunder;
  - (v) any websites or other internet-based branding or marketing;
  - (vi) the Assumed Contracts;
  - (vii) the Books and Records;
  - (viii) the Licenses;
  - (ix) the Company's goodwill; and
  - (x) other assets as detailed in the Stalking Horse APS (collectively, the "**Purchased Assets**");

- (b) the Purchased Assets specifically exclude: cash, cash equivalents, pre-paid expenses, refunds, including, without limitation, insurance refunds and GST/HST rebates as well as any of the Purchased Assets the Stalking Horse Bidder elects to exclude from the Stalking Horse Bid upon written notice to the Receiver;
- (c) the Purchase Price payable by the Stalking Horse Bidder for the Purchased Assets is \$1,500,000;
- (d) the Stalking Horse Bidder is to pay a deposit in the amount of \$150,000 (the “**Deposit**”) to be held in trust by the Receiver’s counsel. The Stalking Horse Bidder is required to pay the Deposit to the Receiver on or before February 18, 2015;
- (e) the payment of a break-up fee in the amount of \$50,000 (the “**Break-Up Fee**”) to the Stalking Horse Bidder in the event that it is not the Winning Bidder. The Break-Up Fee of \$50,000 represents approximately 3.3% of the purchase price for the Purchased Assets and is inclusive of the Stalking Horse Bidder’s direct expenses in negotiating and finalizing the Stalking Horse APS. The Receiver is of the view that the Break-Up Fee is reasonable in the circumstances, consistent with amounts generally seen in insolvency proceedings, and largely represents an expense reimbursement in the event that the Stalking Horse Bidder is not the Winning Bidder. Further, in the Receiver’s view, the Break-Up Fee will not discourage Potential Bidders (as hereinafter defined) from submitting an offer that is superior to the Stalking Horse Bid;
- (f) the Stalking Horse Bid is scheduled to close on or before April 8, 2016;
- (g) the Stalking Horse Bid is subject to certain conditions, the following of which are the only material conditions precedent to the transaction:
  - (i) Bradam being selected as the Winning Bidder in accordance with the Sales Process discussed below; and
  - (ii) the Court approving the Stalking Horse Bid and granting a Vesting Order in favour of the Stalking Horse Bidder for the Purchased Assets.

22. In the Receiver's view, the terms of the Stalking Horse Bid are consistent with standard insolvency transactions, including that the transaction is to be completed on an "as is, where is" basis and contains only basic conditions, which are reasonable in the circumstances. A copy of the Stalking Horse APS is attached hereto as **Appendix "D"**.

### **Proposed Sales Process and Bidding Procedures**

23. The Receiver notes that prior to the Date of Appointment, Elementa did not actively market the Company's assets. The Receiver does, however, understand that in or about July 2015 Elementa retained Kyudoka Capital Corporation as its advisor to assist Elementa in securing financing for its operations, including the Project (the "**Investment Solicitation Process**"). The Receiver further understands that although the Investment Solicitation Process generated interest from several parties, the Investment Solicitation Process did not result in any firm commitments to invest in or otherwise finance Elementa's operations, including the Project. The Receiver also understands that the Company attempted to canvass the market for potential debtor in possession financiers in support of an abortive NOI proceeding. This was abandoned when there was a purported change in the constitution of the Company's board resulting in this receivership, however, the Receiver understands that the process did reveal that there were several prospective lenders who were interested in exploring such an opportunity with a view to owning the Property or parts thereof.
24. Given the recent unsuccessful Investment Solicitation Process, the abortive NOI proceeding undertaken by the Company, and the approaching deadline for the commencement of construction for the Project, the Receiver in consultation with its counsel developed the Sales Process as a means of establishing a benchmark for the Purchased Assets and providing a forum for prospective purchasers to present a bid(s) superior to that contemplated by the Stalking Horse Bid on a timeline to meet the financial and timing exigencies of these circumstances. Among other things, the Sales Process includes bidding procedures (the "**Bidding Procedures**") that incorporate the Stalking Horse Bid and the ability of the Receiver to conduct an auction (the "**Auction**") if qualified and competitive bids for the Purchased Assets are received. The Bidding Procedures are attached hereto as **Appendix "E"**.

25. The Sales Process and Bidding Procedures are summarized as follows:
- (a) as soon as possible following the issuance of a Court order approving the Sales Process and the Bidding Procedures, the Receiver will distribute an initial offering summary (the “**Teaser Letter**”) and form of confidentiality agreement (the “**Confidentiality Agreement**”) to a list of prospective purchasers and investors (“**Potential Bidders**”), which list has already been developed by the Receiver;
  - (b) Potential Bidders that wish to commence due diligence will be required to sign the Confidentiality Agreement. Once a Confidentiality Agreement has been signed by a Potential Bidder (now an “**Interested Party**”), they will receive access to an electronic data room that has been populated by the Receiver. The Receiver will facilitate due diligence efforts, including responding to questions from Interested Parties;
  - (c) Interested Parties will be provided with a copy of the Stalking Horse APS and will be required to submit offers in the form of the Stalking Horse APS. Any changes and/or modifications to the Stalking Horse APS are to be indicated on a blackline to the Stalking Horse APS (including, if applicable, any modifications made to reflect the Property or parts thereof sought to be purchased), which is to be submitted along with the execution version of the agreement;
  - (d) after completion of the due diligence period, each Interested Party is required to submit an offer to acquire all or part of the Property to the Receiver by no later than 12:00 p.m. (EST) on March 21, 2016 (the “**Bid Deadline**”);
  - (e) the minimum aggregate consideration of a bid(s) for all of the Purchased Assets must be at least \$1,650,000 (the “**Minimum Purchase Price**”). However, if an Interested Party is submitting a bid for less than all of the Purchased Assets, such bid is not subject to the Minimum Purchase Price;
  - (f) all offers must be accompanied by a deposit payable to the Receiver, in trust, in an amount equal to at least 10% of the aggregate purchase price of the subject bid;
  - (g) all offers must be on terms no less favourable and no more burdensome or conditional than the Stalking Horse APS;



- (h) all offers must not contain any contingency relating to due diligence or financing or any other material conditions precedent to the bidder's obligation to complete the transaction that are not otherwise contained in the Stalking Horse APS;
- (i) all offers must contain evidence satisfactory to the Receiver of the bidder's financial ability to close the proposed transaction by the closing date;
- (j) the Receiver shall have discretion to consult and negotiate with any participating bidder with respect to their bid;
- (k) once all bids are clarified, the Receiver shall review all bids and determine, in its reasonable judgment, those bidders, if any, that are qualified to participate in the Auction ("**Qualified Bidders**");
- (l) in the event that there is no Qualified Bidder other than the Stalking Horse Bidder, the Receiver shall bring a motion as soon as reasonably possible after the Bid Deadline for approval of the Stalking Horse APS and an order to vest the right, title and interest of Elementa in the Purchased Assets in the Stalking Horse Bidder and proceed with the closing of the Stalking Horse Bid forthwith;
- (m) in the event that there is more than one Qualified Bidder (the Stalking Horse Bidder is automatically deemed to be a Qualified Bidder), the Receiver will send notice to any Qualified Bidders, on or before March 23, 2016, advising of: (i) the date, time and location of the Auction, (ii) a copy of the opening bid (the "**Opening Bid**"), and (iii) the procedures pursuant to which the Auction is to be conducted;
- (n) Qualified Bidders must notify the Receiver, in writing, by no later than March 24, 2016, of their intention to participate in the Auction;
- (o) if the only Qualified Bidder electing to participate in the Auction is the bidder that submitted the Opening Bid (the "**Threshold Bidder**"), the Threshold Bidder shall be deemed to be the successful bidder, subject to Court approval;
- (p) in circumstances where more than one Qualified Bidder elects to participate in the Auction, the Auction shall take place on March 25, 2016;

- (q) bidding at the Auction shall begin with the Opening Bid and each subsequent round of bidding shall continue in minimum increments of \$100,000 or such lower or higher amount as the Receiver may determine in advance of such round of bidding in order to facilitate the Auction (the “**Minimum Overbid Increment**”);
  - (r) if at the end of any round of bidding an Auction participant fails to submit an overbid, such Auction participant will not be eligible to participate in the next round of the Auction. The Receiver, however, reserves the right to establish such timelines and protocols for the Auction as it considers appropriate, in its discretion, to better promote the goals of the Bidding Procedures and facilitate the Auction, provided that the adoption of any rule that materially deviates from the Bidding Procedures shall require an order of the Court; and
  - (s) upon conclusion of the Auction, the Auction shall be closed and the Receiver shall declare the last Opening Bid the successful bid, subject to approval of this Honourable Court.
26. The proposed Sales Process and Bidding Procedures contemplate a 30-day period to market the Property to Potential Bidders. In the Receiver’s view, this timeline is sufficient to allow interested parties to perform due diligence and to submit offers. In addition, the Receiver does not have access to sufficient funding to support a lengthy sale process.
27. The duration of the proposed Sales Process and the existence of the Stalking Horse Bid should create certainty for all stakeholders. As noted previously in this First Report, the SSM Project Contracts contain certain fast approaching deadlines to commence construction of the Project that, in the Receiver’s view, do not support a lengthy sale process. In the circumstances, it is the Receiver’s view that 30-days is sufficient time for Potential Bidders to conduct due diligence on the Property.
28. The Sales Process appears reasonable in that it will provide a benchmark for the Purchased Assets and provide a forum and a deadline to permit and encourage any serious alternative bidders to come forward with firm purchase offers.
29. Further, the Receiver is of the view that the proposed Sales Process exposes the Property to the market for a reasonable time, is transparent and is designed to obtain the highest and best value for the Property given the Company’s current circumstances and stated timeline.

**Recommendation**

30. Based on the foregoing, the Receiver respectfully recommends that this Honourable Court make the Order(s) granting the relief detailed in paragraph 3(f) of this Report.

All of which is respectfully submitted this 16<sup>th</sup> day of February, 2016.

**Richter Advisory Group Inc.  
in its capacity as Receiver of  
Elementa Group Inc.**

Per:



Adam Sherman, MBA, CIRP  
Senior Vice President



Pritesh Patel, MBA, CFA, CIRP  
Vice President

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**ELEMENTA GROUP INC.**

**SECOND REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS RECEIVER OF  
ELEMENTA GROUP INC.**

**MARCH 21, 2016**

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

**IN THE MATTER OF THE RECEIVERSHIP OF THE ELEMENTA GROUP INC.**

**SECOND REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF THE  
PROPERTIES, ASSETS AND UNDERTAKING OF  
ELEMENTA GROUP INC.**

**MARCH 21, 2016**

## Introduction

1. On November 30, 2015, the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), issued an interim order (the “**Interim Order**”) authorizing Richter Advisory Group Inc. (“**Richter**”) to take possession of Elementa Group Inc.’s (“**Elementa**” or the “**Company**”) computer server and certain boxes containing notes and other records referable to the data on the server, on an interim basis, as interim custodian pending the return of the application by Bennett Jones LLP (“**Bennett Jones**”) for the appointment of a receiver over the property, assets and undertakings of Elementa. A copy of the Interim Order is attached hereto as **Appendix “A”**.
2. On December 21, 2015, (the “**Date of Appointment**”), the Court issued an order (the “**Appointment Order**”) appointing Richter as receiver (the “**Receiver**”) pursuant to section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended, (the “**BIA**”) and section 101 of the *Courts of Justice Act* R.S.O. 1990 c. 43, as amended, without security, of all of the properties, assets and undertakings (the “**Property**”) of Elementa. A copy of the Appointment Order is attached hereto as **Appendix “B”**.
3. On February 19, 2016, the Court issued an order (the “**Sales Process Order**”) approving the proposed sales process (the “**Stalking Horse Sales Process**”) for the sale of substantially all of the Company’s Property. An Agreement of Purchase and Sale dated February 12, 2016 (the “**Stalking Horse APS**”) between the Receiver and Bradam Canada Inc. for the sale of substantially all of Elementa’s business and assets was approved as the stalking horse sale agreement. A copy of the Sales Process Order is attached hereto as **Appendix “C”**.
4. This report is the Receiver’s second report (the “**Second Report**”) to the Court. The Receiver’s first report dated February 16, 2016 (the “**First Report**”) outlined, among other things, certain background information about Elementa, the activities of Richter and the Receiver subsequent to the granting of the Interim Order and the Appointment Order, respectively, and an overview of the terms of the Stalking Horse APS and the Stalking Horse Sales Process. A copy of the First Report (without appendices) is attached hereto as **Appendix “D”**.



## Purpose of this Report

5. The purpose of this Second Report is to provide information to this Court in respect of the circumstances surrounding a certain agreement among Elementa, Mr. Andrew Ferri ("**Ferri**"), Northguard Capital Corp ("**Northguard**") and Elementa SSM Inc. ("**SSM**") purportedly made as of April 30, 2013 (the "**April 2013 Agreement**"), which by its terms purports to, among other things, effect a sale of a substantial portion of the Property to SSM. The information included herein is filed in the context of the Receiver's motion for advice and directions concerning the nature and effect of the April 2013 Agreement.

## Terms of Reference

6. In preparing this Second Report, the Receiver has relied upon unaudited financial and other information previously prepared by the Company and/or its representatives as well as other information supplied by Bennett Jones, the Company's former management and others, as well as the available corporate governance records of the Company (collectively, the "**Information**"). The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided and in consideration of the nature of evidence provided to this Honourable Court, in relation to the relief being sought herein. The Receiver has not, however, audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the Canadian Institute of Chartered Accountants Handbook and, as such, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
7. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

## General Background to the Receivership Proceedings

8. Elementa was incorporated pursuant to the *Business Corporations Act* (Ontario). It is an early state development company that owns and controls intellectual property rights to a waste conversion process to efficiently and economically convert municipal solid waste into clean synthetic gas, which has properties and utility values similar to natural gas. The synthetic gas and resultant heat can be used to power turbines, engines or fuel cells for the generation of electricity, distilled into ethanol or hydrogen or used as process heat and gas (natural gas replacement). The Company's registered head office is leased premises located at 509 Glendale Avenue E., Suite 302, Niagara-on-the-Lake, Ontario (the "**Premises**").

9. Elementa is the sole limited partner of Elementa Algoma LP, an Ontario limited partnership, whose general partner is Elementa Algoma Inc. The shares of Elementa Algoma Inc. are wholly owned by Elementa Holdings Ltd. and the shares of Elementa Holdings Ltd. are wholly owned by Elementa.
10. Commencing in or about 2003, the Company began raising capital for the construction of a pilot plant to test and develop a process to convert waste material into a clean energy source in an efficient and cost effective manner. The Company was successful in raising sufficient funds to construct a pilot plant in Sault Ste. Marie, Ontario, which facility began processing unsorted municipal solid waste in or about October 2007. The pilot plant, which the Receiver understands underwent third party verification and received Ontario Ministry of Environment approval, provided Elementa the opportunity to both test and optimize various aspects of its proprietary process.
11. Based on the successful results from its pilot plant, Elementa entered into discussions with several municipalities and industrial partners for the construction of full-scale facilities. These discussions culminated in Elementa Algoma LP (the vehicle which would develop the Project, and as hereinafter defined) becoming a party to certain contracts in relation to the planned construction of a municipal waste processing facility to produce electricity in Sault Ste. Marie (the **"Project"**).
12. For the purposes of the Project, Elementa entered into a Waste Supply and Reformation Agreement with the Corporation of the City of Sault Ste. Marie dated October 26, 2009, as amended, assigned and novated from time to time (collectively, the **"Waste Agreement"**).
13. Subsequent to entering into the Waste Agreement, Elementa Algoma LP entered into an energy from waste contract for the Project (the **"EFW Contract"**) with the Ontario Power Authority (now the Independent Electricity System Operator (**"IESO"**)) dated December 18, 2013. Elementa Algoma LP is the so-called "Supplier" under the EFW Contract.
14. In addition to the above and notwithstanding its financial difficulties, Elementa also secured the site for the Project by arranging for the purchase of the land for the Project site (the **"Project Lands"**) from the Corporation of the City of Sault Ste. Marie by 2124732 Ontario Inc. (**"212"**), a corporation owned by a shareholder and creditor of Elementa. Following its purchase of the Project Lands, 212 entered into a lease with Elementa Algoma LP for the Project Lands (the **"Lease"**). The Waste Agreement, the EFW Contract and the Lease are collectively referred to herein as the **"SSM Project Contracts"**.

15. The SSM Project Contracts contain certain deadlines for the construction and commercial operation of the Project. Pursuant to one such contract, the construction of the Project must be commenced on or before May 1, 2016. The undertaking to construct the Project required Elementa to raise significant capital (approximately \$50 – \$55 million). Unfortunately, Elementa was unsuccessful in raising sufficient funding to adequately address its capital needs and realize value from the SSM Project Contracts. Ultimately, due to its inability to raise sufficient funds to continue operations and advance the Project, Elementa was forced to lay off / terminate its workforce with the last two remaining employees being laid off / terminated in or about early 2015. As at the Date of Appointment, it was the Receiver’s understanding that Elementa was not an operating business, had no employees and no source of revenue.
16. As set out in the Receiver’s First Report, according to the Company’s most recent internal, unaudited financial statements, as at December 31, 2014, the Property consisted of the following:

<b>Assets</b>	<b>Net Book Value (\$000s)</b>
Cash and Cash Equivalents	15
HST Accounts Receivable	23
Due From Shareholders	150
Sault Ste Marie Commercial Design	865
Fixed Assets	78
<b>Total</b>	<b>1,131</b>

Note: The above amounts represent book values of the Company’s assets as detailed in the Company’s book and records and do not necessarily represent the sale or liquidation value of the Property.

17. According to a search of the Personal Property Security Registration System (Ontario) (the “PPSR”), as at the Date of Appointment, the parties holding security on the Property (collectively, the “Secured Creditors”) as well as the approximate amount of their respective claims against Elementa, were as follows:

Bennett Jones LLP (also registered in CIPO)	\$ 3,000,000
Her Majesty in Right of Ontario (Ministry of Finance)	unknown
2124732 Ontario Inc.	unknown
Gary Blokhuis D.B.A. Blokuis Holdings	unknown
Sharon D’Amico	unknown
David D’Amico	unknown

18. Based on a review of the PPSRS, at no point were any of Ferri, Northguard, SSM or another individual associated with certain of the transactions addressed herein, Mr. Luciano Butera (“**Butera**”), the holders of registered security against the assets of Elementa, nor was any assignment of intellectual property registered in the appropriate Federal Registries.
19. In addition to the amounts owed by Elementa to its Secured Creditors, according to the Company’s books and records, as at the Date of Appointment, Elementa had accrued and unpaid unsecured obligations totaling approximately \$7 million.

### **Ferri’s involvement with Elementa**

20. In an effort to gain a better understanding of the April 2013 Agreement and Elementa’s other dealings with Ferri and Northguard, the Receiver instructed its counsel, Goldman Sloan Nash & Haber LLP (“**GSNH**”), to review the minute books and the available corporate books and records (collectively, the “**Company Records**”) of the Company. Unless otherwise obvious from the context, the following information pertaining to Mr. Jayson Zwierschke (“**Zwierschke**”), Ferri, and Northguard has been extracted from this source.
21. Based on a review of the Company Records available to the Receiver, Ferri’s dealings with Elementa have involved each or all of some combination of himself, Northguard, SSM, and Butera. Ferri is the President of Northguard. Attached hereto as **Appendix “E”** is a copy of the Corporation Profile Report dated March 14, 2016 for Northguard. According to the April 2013 Agreement, Ferri also appears to be the President of SSM. The Receiver has no evidence as to who owns the beneficial controlling interest in the equity of Northguard or SSM, nor does it understand the relationship between Butera and Ferri. The registered offices of each of Northguard and SSM appear to be the Premises. Attached as **Appendix “F”** is a copy of the Corporation Profile Report dated March 10, 2016 for SSM.
22. Ferri’s involvement with Elementa appears to date back to at least August 2008. At that time, Elementa’s predecessor in name, Enquest Power Corporation (“**Enquest**”) executed a promissory note dated August 14, 2008 (the “**August 2008 Note**”) in favour of Northguard in the principal amount of \$300,000 and bearing interest at 15%, due on the earlier of an event of default or November 30, 2008; and a General Security Agreement also dated August 14, 2008 (the “**August 2008 GSA**” and together with the August 2008 Note, the “**August 2008 Transactions**”) charging the assets, property and undertaking of Enquest, but not intellectual property. The Receiver, through its counsel, has contacted Mr. Jonathan Cocker of Baker & McKenzie LLP who acted for Enquest and then Elementa up to 2011 and was involved to some extent in the August 2008 Transactions. Based on the Receiver’s

discussions with Mr. Cocker and a review of the PPSRS, it appears that the August 2008 GSA was never perfected by registration against Enquest pursuant to the Personal Property Security Act (Ontario) (the “**PPSA**”). The Receiver can confirm that there is no subsisting registration pursuant to the PPSA against Elementa in favour of either Ferri or Northguard, which name change was obviously known to Ferri and Northguard. A copy of the executed August 2008 Note, including the August 2008 GSA are attached hereto as **Appendix “G”**.

23. From its review of the available Company Records, the Receiver is of the view that the funding provided by the August 2008 Note was intended to be used (and was used) to purchase certain technical equipment for the building of the Company’s demonstration site in Sault St. Marie and to provide approximately \$90,000 of ‘operating capital’ to the Company. Attached hereto as **Appendix “H”** is a copy of letter signed by Zwierschke, as President of Enquest, confirming the use of the proceeds from the August 2008 Note and confirming that the equipment purchased with the funds provided will be pledged under the August 2008 GSA.
24. In addition, Zwierschke personally guaranteed the August 2008 Note. Attached as **Appendix “I”** is a copy of Zwierschke’s personal guarantee in respect of the August 2008 Note.
25. In addition to the August 2008 Transactions, Enquest appears to have signed a Letter of Intent with Ferri c/o Northguard dated August 14, 2008 to, among other things, document Enquest’s commitment to provide Ferri/Northguard with a right to purchase privately-held common shares of Enquest up to a value of \$300,000 (the “**Share Option**”). The pricing of the shares pursuant to the Share Option was variable. If shares were purchased by third parties between August to November 2008, the share option price was to be the average of the prices paid during that period. If no shares traded during that period, the price was to be the average book value of all shares issued by the Company as of November 30, 2008. There is a handwritten and initialed addition to the agreement stating that the right to buy shares at average book value shall be granted if the Company has not paid back the August 2008 Note by November 30, 2008. Attached hereto as **Appendix “J”** is a copy of the Share Option.
26. Commencing on August 19, 2011 and continuing over the course of 2012, the Company entered into five (5) separate letters amending the Share Option, successively increasing the shares made available under the option from \$300,000 to \$6,000,000. The original increase is stated, in a hand-written notation on a letter dated August 19, 2011, to have been “*for arranging bridge financing on August 19, 2011 and entering into the License agreement dated August 25, 2011*”. This License Agreement is discussed in greater detail below. Attached hereto as **Appendix “K”** are copies of the amending letters increasing the shares made available under the Share Option.

27. Over that same period, various loans appear to have been made available to the Company by Northguard and Butera.
28. On August 16, 2011 Elementa executed a promissory note in the principal amount of \$355,000 in favour of Northguard and Butera bearing interest at the rate of 15% due the earlier of: (i) the failure of Elementa to obtain and pay over to the lenders certain Scientific Research and Experimental Development (“**SRED**”) credits for the taxation years 2009 and 2010 and (ii) December 15, 2011. Notations on the promissory note indicate that it was repaid, but the Receiver is unable to confirm repayment of this obligation. Attached hereto as **Appendix “L”** is a copy of the August 16, 2011 promissory note.
29. The final evidence of borrowing among these parties (Elementa, Northguard/Ferri and Butera) is in the form of a term grid promissory note dated March 9, 2012 (the “**Grid Note**”) in the maximum principal amount of \$416,500 due the earlier of: (i) the failure of the Company to make certain payments as contemplated in the Grid Note and (ii) April 30, 2012. The Company had, once again, agreed to pay over a SRED credit (in this case, the 2011 taxation year) as well as funds received from investors and Other Sources (as defined in the Grid Note) in repayment of the Grid Note. The Grid Note was stated to bear interest at 15% per annum, calculated monthly, not in advance, compounded annually on January 20<sup>th</sup> of each year. Although the Grid Note purported to pledge the above sources of payment to the lenders, no registration under the PPSA in respect of a pledge appears to have been made. Attached hereto as **Appendix “M”** is a copy of the Grid Note.
30. In total, based on the Corporate Records available to the Receiver, the borrowings among Northguard, Butera, Ferri and Enquest/Elementa appear to be somewhere between \$771,500 and \$1,071,500, although this is not certain as the Receiver is unable to ascertain which, if any, of these loans were repaid and whether the substantial grant of options under the Share Option were made in lieu of interest, or on some other basis. In addition, the April 2013 Agreement references a January 15, 2013 promissory note which, as at the date of this Second Report, neither Ferri nor his counsel have been able to produce. In particular, the Receiver was interested in whether this note had consolidated the earlier borrowings, represented new advances, or both.

### The August 25, 2011 License Agreement

31. Among the materials attached to the April 2013 Agreement is a license agreement, a copy of which is attached hereto as **Appendix “N”**, made as at August 25, 2011 (the “**License Agreement**”). It appears in substance to be a form of co-development agreement between Ferri (with a corporation to be named) and Elementa, setting out some parameters by which the parties might work together to:
- (a) develop, finance and build a waste to energy project in St. Lucia;
  - (b) provide a right of first refusal to Northguard (although Northguard is not a party) to provide project financing to future projects (the “**ROFR**”);
  - (c) issue 2.5 million share purchase warrants to purchase common shares in the capital of Elementa to Northguard; and
  - (d) license future project entities to use the Elementa technology in the development of such projects, provided that there be no encumbrances permitted to be registered against such technology.
32. The ROFR appears to be subject to a condition precedent that Ferri secure “*all of the financing necessary for the St. Lucia Project*”. No agreement with St. Lucia was ever consummated. The April 2013 Agreement appears to establish that SSM is the ‘corporation to be named’ referred to in paragraph 31 above.

### The April 2013 Agreement

33. The April 2013 Agreement, a copy of which is attached hereto as **Appendix “O”**, is the focus of this motion for advice and directions. The April 2013 Agreement purports to effect a number of transactions, including the following:
- (a) Elementa purports to transfer title of the Sault Ste. Marie demonstration plant to Northguard along with a covenant by Elementa to sell the plant and deliver the proceeds to Northguard. Notwithstanding this purported transaction, and as noted above, these assets appear to be listed on Elementa’s unaudited financial statements dated as at December 31, 2014;
  - (b) Elementa assigns the License Agreement to SSM, which the Receiver interprets to mean that SSM is the ‘corporation to be named’ in paragraph 31 above;

- (c) Elementa acknowledges that Ferri agreed to finance the St. Lucia Project, and in doing so, fulfilled the condition precedent contained in License Agreement;
  - (d) Elementa agrees “*in order to further secure the outstanding note payable to Northguard, Elementa shall transfer all its right interest and title in its steam reforming systems technology...to SSM” [emphasis added];*
  - (e) Elementa will forego any license fees or royalties on the Project;
  - (f) Elementa will receive a 20% royalty based on net profit before taxes on future projects other than the Project;
  - (g) Elementa will transfer the SSM Project Contracts and the shares or units of any LP formed to facilitate the Project to SSM; and
  - (h) SSM agrees to transfer Elementa’s technology back to Elementa upon repayment of a certain promissory note dated January 15, 2013 referenced in the recitals to the April 2013 Agreement.
34. The existence of the April 2013 Agreement came as a complete surprise to the Receiver. Accordingly, upon becoming aware of its existence, the Receiver instructed GSNH to review the available Company Records, and GSNH could find no reference to the April 2013 Agreement in any of the directors’ minutes or notes made available to the Receiver. Further, there does not appear to have been a shareholders’ meeting called to discuss and approve the sale of all, or substantially all, of Elementa’s assets as would be required pursuant to the articles and by-laws of the Company.
35. Most disturbingly, the following passage is in the board minutes of the meeting held October 25, 2013 (a copy of the board minutes dated October 25, 2013 is attached hereto as **Appendix “P”**): “Jayson Zwierschke acknowledged that he had made an arrangement with Andy Fehri [sic] regarding options for ‘a couple of million’ of his own shares in exchange for continued funding from Andy Fehri and/or one of his associated companies. This arrangement was unknown to the board, which has to approve all actual and potential transfers of share ownership. It was agreed that Doug Fowler and Erv Krause will work with Jayson Zwierschke and Andy Fehri to document this correctly. Jayson Zwierschke agreed to provide legal certification that there are no other arrangements having to do with Elementa that are unknown to the Board”. [emphasis added]



36. A number of aspects of this passage are disturbing. First, the so-called options had grown from \$300,000 to \$6,000,000 over the course of 2012. Second, it is not clear how these options were to have been satisfied, nor for what consideration they were issued. Zwierschke has maintained that they were to be satisfied from his own shareholdings, however, the documentation is ambiguous. The Receiver understands from its discussions with the former Chairman of the board and independent director, Mr. John Ashbourne, that efforts to clarify the Share Option going back to the time of its disclosure have elicited no clarification from Ferri. This fact and the existence of the warrants issued to Northguard posed a serious impediment to financing the Company, as the effects of the Share Option and granting of warrants may have been highly dilutive to any subsequent investor.
37. Finally, it is astonishing that Zwierschke, having made the April 2013 Agreement which purports to materially impair Elementa's key assets, does not disclose this agreement at the time it was entered into, at the October 25, 2013 board meeting or at any other time. The first time the Receiver and presumably all persons dealing at arm's length with the Company learn of the existence and content of the April 2013 Agreement was on February 29, 2016 when Ferri's counsel disclosed it. Arguably, this arrangement is even more egregious than the one affecting the share capital of the Company in that Elementa has purportedly lost control of its key assets without legal process, corporate process or public disclosure of any kind.
38. Although the Receiver is not in a position to comment on the amounts owed to the Company's creditors at the time the April 2013 Agreement was consummated, Elementa's internal unaudited financial statements indicate that, as at December 31, 2012, Elementa had unsecured creditor obligations totaling approximately \$5 million. The Company's obligations continued to grow over the two years following the purported undisclosed transactions contained in the April 2013 Agreement and, as noted in paragraph 19 above, as at the Date of Appointment, the Company had unsecured obligations totaling approximately \$7 million. Moreover, the physical assets which were purportedly sold to Northguard could still be found on the Company's unaudited financial statements well over a year after such purported sale. In addition, no public registrations were made and, in effect, to the outside world nothing at Elementa had changed.
39. Somewhat paradoxically given his current position on the matter, on February 7, 2014, Ferri wrote to Elementa on Northguard letterhead concerning the Project, attention: Jayson Zwierschke informing Elementa that "*further to our meeting on February 6, 2014, please be advised we will not be moving forward with the above noted project pursuant to our agreement of August 25, 2011*". Attached hereto as **Appendix "Q"** is a copy this correspondence.

40. In the February 7, 2014 letter, the Receiver is of the view that Ferri is referencing the License Agreement and clearly indicating that he has no interest in pursuing the Project. Meanwhile, on March 7, 2014, Zwierschke represented to Elementa's board that Ferri was still interested in the Project. Attached hereto as **Appendix "R"** is a redacted version of Elementa's board minutes dated March 7, 2014.
41. There are three noteworthy elements of the March 7, 2014 board minutes:
- (a) Zwierschke's assertion that Ferri is still interested in the Project despite Ferri's letter of February 7, 2014 stating otherwise;
  - (b) the Share Option issue has still not been resolved; and
  - (c) the board's assertion that "*anything offered to Andy Ferri by Jayson Zwierschke and not explicitly approved by the Board is not legitimate*".
42. In the Receiver's view, it is difficult to reconcile the February 7, 2014 letter and the April 2013 Agreement. Having purportedly tied up Elementa's assets with a view to securing his position and pursuing the Project, Ferri appears to abandon the Project. What is clear, is that since the April 2013 Agreement there is no evidence that Ferri raised sufficient capital to commence the Project or any other project, and that any transactions purported to have been effected under the April 2013 Agreement were never disclosed or approved by Elementa's board. Moreover, the Receiver is not aware of any assignment having been made of the SSM Project Contracts.
43. In the Receiver's dealings with both the City of Sault Ste. Marie and with the IESO, there has been no suggestion that either of those counterparties were aware of any assignment of the SSM Project Contracts. Moreover, the IESO continues to communicate with Elementa Algoma LP as 'Supplier' under the EFW Contract through Zwierschke, and Zwierschke has responded to their inquiries as recently as March 4, 2016.

#### **Zwierschke's and Ferri's conduct since November 2015**

44. Since the time of the initial hearing of the receivership application, Zwierschke has had the opportunity to disclose the existence of the April 2013 Agreement to the Court. He has not done so. Similarly, Ferri who states in his March 9, 2016 e-mail to the service list in this matter that he has "*worked tirelessly with the executives of Elementa Group Inc. as well as certain board members over a long period of time*" had it within his power to reveal the April 2013 Agreement. However, the Receiver can find no indication

that Ferri advised the board or other executives of Elementa that he held such pervasive rights in and to the Company's assets.

45. The law firm Wright Temelini LLP (“WT”) served a Notice of Appearance in this matter on February 5, 2016 on behalf of Ferri and Northguard. WT was served with the Receiver's motion materials for the approval of the Sale Process Order and neither Ferri nor Northguard took a position at that time despite the fact that the Receiver was proposing to sell the very assets which Ferri now claims he controls through Northguard, SSM or personally. Mr. Temelini, in his message accompanying the disclosure of the April 2013 Agreement on February 29, 2016 states that: *“My client just recently provided me with the attached document [the April 2013 Agreement] which is an agreement between Elementa, Northguard Capital Corp., Andrew Ferri and an entity called Elementa SSM Inc. This agreement pre-dates the Notice contained at Exhibit H of Ms. Oliver's affidavit [the Bennett Jones GSA]. I would ask you to review this document and would like to discuss it with you at your earliest convenience”*. Attached hereto as **Appendix “S”** is a copy of Mr. Temelini's email without attachment.
46. Based on Mr. Temelini's message, the Receiver assumes that until shortly before February 29, 2016, Ferri had chosen not to inform his counsel of the existence and importance to him of the April 2013 Agreement, despite the impending motion for approval of the Sale Process Order on February 19, 2016. In the Receiver's view, it is remarkable that, despite having legal representation from at least February 5, 2016, two full months elapsed from the date of the Appointment Order and 13 days following the commencement of the Stalking Horse Sale Process, before Ferri chose to reveal the April 2013 Agreement to the Receiver.
47. Ferri and Zwierschke appear to have a close connection. Ferri, Northguard and SSM maintained offices alongside those of Elementa at the Premises. Zwierschke was the initial administrator of SSM. The Receiver most recently assisted Ferri retrieve certain of his personal files from the Premises through its contacts with the landlord to the Premises. Based on the events and documents reviewed to date, it is not a stretch to conclude that Zwierschke was one of the persons with whom Ferri was actively engaged concerning Elementa's affairs. Zwierschke is the common link to all of the Ferri/Northguard/Butera/SSM documentation. Although the Receiver cannot find evidence that the board or Elementa's creditors were apprised of the April 2013 Agreement and other transactions with Ferri/Northguard, it appears clear that Zwierschke was aware of all such dealings having negotiated them, but apparently he did not disclose these agreements to his colleagues on the board, Elementa's creditors or Elementa's legal counsel.

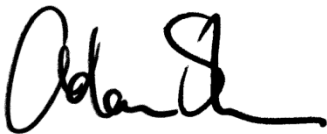
48. Likewise, Ferri chose not reveal these arrangements either by direct disclosure to interested parties or by registrations in the public registries where one would have expected to record such transactions. Had he done so, parties dealing with Elementa would have been put on notice of these arrangements and would have governed their affairs accordingly. In the Receiver's view, the fact that these transactions were effectively secret has consequences for their enforceability against third parties.

The Receiver respectfully submits the foregoing in connection with its motion for advice and directions.

All of which is respectfully submitted this 21<sup>st</sup> day of March, 2016.

**Richter Advisory Group Inc.  
in its capacity as Receiver of  
Elementa Group Inc.**

Per:



Adam Sherman, MBA, CIRP  
Senior Vice President



Pritesh Patel, MBA, CFA, CIRP  
Vice President

# T A B I

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**ELEMENTA GROUP INC.**

**THIRD REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS RECEIVER OF  
ELEMENTA GROUP INC.**

**APRIL 8, 2016**

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

**IN THE MATTER OF THE RECEIVERSHIP OF THE ELEMENTA GROUP INC.**

**THIRD REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF THE  
PROPERTIES, ASSETS AND UNDERTAKING OF  
ELEMENTA GROUP INC.**

**APRIL 8, 2016**



## Introduction

1. On November 30, 2015, the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), issued an interim order (the “**Interim Order**”) authorizing Richter Advisory Group Inc. (“**Richter**”) to take possession of Elementa Group Inc.’s (“**Elementa**” or the “**Company**”) computer server and certain boxes containing notes and other records referable to the data on the server, on an interim basis, as interim custodian pending the return of the application by Bennett Jones LLP (“**Bennett Jones**”) for the appointment of a receiver over the property, assets and undertakings of Elementa. A copy of the Interim Order is attached hereto as **Appendix “A”**.
  
2. On December 21, 2015, (the “**Date of Appointment**”), the Court issued an order (the “**Appointment Order**”) appointing Richter as receiver (the “**Receiver**”) pursuant to section 243 (1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended, (the “**BIA**”) and section 101 of the *Courts of Justice Act* R.S.O. 1990 c. 43, as amended, without security, of all of the properties, assets and undertakings (the “**Property**”) of Elementa. A copy of the Appointment Order is attached hereto as **Appendix “B”**.
  
3. On February 19, 2016, the Court issued an order (the “**Sales Process Order**”):
  - (a) authorizing and directing the Receiver to enter into an agreement dated February 12, 2016 (the “**Stalking Horse APS**”) with Bradam Canada Inc. (the “**Stalking Horse Bidder**” or “**Bradam**”) for the sale of substantially all of the Property (the “**Stalking Horse Assets**”). The Stalking Horse APS set the minimum floor price in respect of a competitive sales process for the Stalking Horse Assets; and
  
  - (b) approving the proposed sales process (the “**Stalking Horse Sales Process**”), including the bidding procedures (the “**Bidding Procedures**”) to be undertaken by the Receiver to solicit bids for the Stalking Horse Assets, and authorizing and directing the Receiver to conduct the Stalking Horse Sales Process.

A copy of the Sales Process Order is attached hereto as **Appendix “C”**.

4. On April 5, 2016, the Court issued an order (the “**April 5 Order**”) in connection with Receiver’s motion for advice and directions as to the nature and effect of a certain agreement among Elementa, Mr. Andrew Ferri, Northguard Capital Corp. and Elementa SSM Inc. (“**Elementa SSM**”) dated April 30, 2013, which by its terms purported to, among other things, effect a sale of a substantial portion of the Property to Elementa SSM (the “**April 2013 Agreement**”). The April 5 Order declared, among other things, that the April 2013 Agreement is an agreement that is subject to the provisions of the *Personal Property Security Act* (Ontario) (the “**PPSA**”) and that the Property may be vested free and clear of the interests, of any nature and kind, created by the April 2013 Agreement. A copy of the April 5 Order is attached hereto as **Appendix “D”**.
5. This report is the Receiver’s third report (the “**Third Report**”) to the Court. The Receiver’s first report dated February 16, 2016 (the “**First Report**”) outlined, among other things, certain background information about Elementa, the activities of Richter and the Receiver subsequent to the granting of the Interim Order and the Appointment Order, respectively, and an overview of the terms of the Stalking Horse APS and the Stalking Horse Sales Process. The Receiver’s second report dated March 21, 2016 (the “**Second Report**”) provided background information in respect of the Receiver’s motion for advice and directions regarding the nature and effect of the April 2013 Agreement.

#### **Purpose of this Report**

6. The purpose of this Third Report is to provide information to this Court in respect of the following:
  - (a) the activities of the Receiver since the First Report;
  - (b) the results of the Stalking Horse Sales Process, including the Receiver’s comments and recommendation regarding the transaction between the Receiver and the Stalking Horse Bidder (the “**Transaction**”); and
  - (c) the Receiver’s recommendation that this Court make an order(s):
    - (i) declaring Bradam the “Winning Bidder” in accordance with the terms of the Stalking Horse Sales Process/Bidding Procedures;
    - (ii) approving the Transaction and authorizing and directing the Receiver to take all steps necessary to complete the Transaction; and

- (iii) vesting, upon the closing of the Transaction, the Company's right, title and interest in and to the Stalking Horse Assets to Bradam free and clear of all liens, charges, security interests and other encumbrances (the "**Approval and Vesting Order**").

### **Terms of Reference**

7. In preparing this Third Report, the Receiver has relied upon unaudited financial and other information previously prepared by the Company and/or its representatives as well as other information supplied by Bennett Jones, the Company's former management and others (collectively, the "**Information**"). The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided and in consideration of the nature of evidence provided to this Court, in relation to the relief being sought herein. The Receiver has not, however, audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards ("**GAAS**") pursuant to the Canadian Institute of Chartered Accountants Handbook and, as such, the Receiver expresses no opinion or other form of assurance contemplated under GAAS in respect of the Information.
8. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

### **Background**

9. As noted in the First Report, Elementa is an early stage development company that owns and controls intellectual property rights to a waste conversion process to efficiently and economically convert municipal solid waste into clean synthetic gas, which has properties and utility values similar to natural gas. The synthetic gas and resultant heat can be used to power turbines, engines or fuel cells for the generation of electricity, distilled into ethanol or hydrogen or used as process heat and gas (natural gas replacement). The Company's registered head office is leased premises located at 509 Glendale Avenue E., Suite 302, Niagara-on-the-Lake, Ontario (the "**Premises**").
10. Elementa is the sole limited partner of Elementa Algoma LP (the "**LP**"), an Ontario limited partnership, whose general partner is Elementa Algoma Inc. The shares of Elementa Algoma Inc. are wholly owned by Elementa Holdings Ltd. and the shares of Elementa Holdings Ltd. are wholly owned by Elementa. A copy of Elementa's corporate chart is attached as **Appendix "E"** to this report. None of these entities are in receivership.

11. Commencing in or about 2003, the Company began raising capital for the construction of a pilot plant in Sault Ste. Marie, Ontario (“**SSM**”) to test and optimize various aspects of its proprietary process. The Company was successful in raising sufficient funds to construct a pilot plant, which went into operation in or about October 2007. Prior to the Date of Appointment, Elementa was in the planning stages for the construction of a commercial-scale plant in SSM to process 50,000 tonnes of municipal waste annually (the “**Project**”). LP was established as the vehicle to develop the Project and, as described below, LP is a party to certain contracts in relation to the Project.
12. On October 26, 2009, for the purposes of the Project, Elementa and the Corporation of the City of Sault Ste. Marie entered into a Waste Supply and Reformation Agreement, as amended, assigned and novated from time to time (collectively, the “**Waste Agreement**”). On December 18, 2013, LP entered into an energy from waste contract for the Project (the “**EFW Contract**”) with the Ontario Power Authority (now the Independent Electricity System Operator (“**IESO**”)).
13. Elementa also secured the site for the Project by arranging for the purchase of the land for the Project site (the “**Project Lands**”) from the Corporation of the City of Sault Ste. Marie by 2124732 Ontario Inc. (“**212**”), a corporation owned by a shareholder and creditor of Elementa. Following its purchase of the Project Lands, 212 entered into a lease with LP for the Project Lands (the “**Lease**”). The Waste Agreement, the EFW Contract and the Lease are collectively referred to herein as the “**SSM Project Contracts**”.
14. The SSM Project Contracts contain certain fast approaching deadlines for the construction and commercial operation of the Project. Pursuant to one such contract, the construction of the Project must be commenced on or before May 1, 2016.
15. According to a search of the Personal Property Security Registration System (Ontario), as at the Date of Appointment, the parties holding security on the Property (collectively, the “**Secured Creditors**”) as well as the approximate amount of their respective claims against Elementa, were as follows:

Bennett Jones LLP	\$	3,000,000
Her Majesty in Right of Ontario (Ministry of Finance)		unknown
2124732 Ontario Inc.		unknown
Gary Blokhuis D.B.A. Blokhuis Holdings		unknown
Sharon D’Amico		unknown
David D’Amico (claim amount as at August 31, 2014)	\$	114,642

16. In addition to the amounts owed by Elementa to its Secured Creditors, according to the Company's books and records, Elementa has accrued and unpaid unsecured obligations totaling approximately \$7 million.
17. As at the Date of Appointment, Elementa was not an operating business, had no employees and no source of revenue. The Company's assets primarily consist of intellectual property rights related to its waste conversion process and technology.

#### **Activities of the Receiver**

18. The activities of the Receiver from the Date of Appointment to February 16, 2016 are detailed in the First Report. Subsequent to the filing of the First Report, the Receiver's activities have included:
  - (a) attending at the Premises, including discussions with the landlord (and its counsel) regarding the Company's assets located at the Premises. As noted above, as at the Date of Appointment, Elementa was not an operating business and had no employees. As such, the Receiver (which was without funds to pay occupation rent) did not occupy the Premises and, following several discussions and the exchange of correspondence between the Receiver and the landlord (and its counsel), the Receiver took steps to remove Elementa's books and records and other Property located at the Premises and store same pending completion of the Stalking Horse Sales Process;
  - (b) corresponding with third parties that the Receiver was aware may have documents and/or other property located at the Premises to advise that the Receiver was not occupying the Premises and that they should contact the landlord regarding any documents and/or other property that they may have located at the Premises;
  - (c) communicating with representatives of the IESO regarding the EFW Contract and other matters in connection with Elementa and the receivership proceedings;
  - (d) communicating with counsel for 212 regarding the Project Lands and other matters in connection with the receivership proceedings;
  - (e) communicating with representatives of the Canada Revenue Agency in connection with Elementa and the receivership proceedings;

- (f) communicating with representatives of the Ontario Ministry of the Environment and Climate Change in connection with Elementa and the receivership proceedings;
- (g) preparing and mailing 2015 T4s for Elementa's former employees;
- (h) compiling information for the Data Room (as defined below);
- (i) marketing the Company's assets to the Potential Bidders (as defined below) and soliciting their interest in participating in the Stalking Horse Sales Process;
- (j) facilitating due diligence requests from Interested Parties (as defined below);
- (k) carrying out the Stalking Horse Sales Process in accordance with the Sales Process Order;
- (l) communicating with the Receiver's counsel, Goldman Sloan Nash & Haber LLP, regarding its review of the Company's minute books and the available corporate books and records in an effort to gain a better understanding of the April 2013 Agreement and Elementa's other dealings with Mr. Ferri and Northguard Capital Corp.;
- (m) communicating with Bradam and its counsel in connection with the April 2013 Agreement and other matters in connection with the Stalking Horse Sales Process and the receivership proceedings;
- (n) attending before this Court in respect of the Receiver's motion for advice and directions concerning the nature and effect of the April 2013 Agreement, including preparing the Second Report;
- (o) corresponding and communicating with Bennett Jones, Elementa's primary and first-ranking Secured Creditor;
- (p) responding to calls and enquiries from creditors and other stakeholders regarding Elementa and the receivership proceedings; and
- (q) preparing this Third Report.

## The Stalking Horse Sales Process

19. As noted in the First Report, the Stalking Horse Sales Process provided a means for testing the market and a forum for prospective purchasers to present a bid(s) superior to that contemplated by the Stalking Horse APS on a timeline to meet the financial and timing exigencies of these circumstances. The key aspects of the Stalking Horse Sales Process and its results are summarized as follows:
- (a) the Receiver, in consultation with certain interested parties, assembled a list of potential interested parties, which included both strategic and financial purchasers located across the globe (collectively, the “**Potential Bidders**”);
  - (b) commencing on February 19, 2016, the Receiver contacted 38 Potential Bidders to advise of the opportunity and the Stalking Horse Sales Process, and provided each Potential Bidder with a copy of the initial offering summary (the “**Teaser Letter**”) and a form of confidentiality agreement (the “**Confidentiality Agreement**”);
  - (c) over the course of the Stalking Horse Sales Process, the Receiver followed up with all Potential Bidders to confirm their receipt of the Teaser Letter and Confidentiality Agreement, and to gauge their interest in pursuing the opportunity;
  - (d) Potential Bidders interested in obtaining additional information regarding Elementa’s business and/or assets were required to execute the Confidentiality Agreement in order to obtain access to an electronic data room (the “**Data Room**”) to assist in due diligence efforts. A total of 6 parties executed the Confidentiality Agreement and were provided with Data Room access (the “**Interested Parties**”);
  - (e) the Receiver assembled information in the Data Room, which contained financial, intellectual property and other information relevant to the Company’s business and assets, as well as copies of the Stalking Horse APS and the Bidding Procedures;
  - (f) throughout the course of the Stalking Horse Sales Process, the Receiver facilitated due diligence by Interested Parties, including updating the Data Room with current information and responding to any queries from Interested Parties, as required;

- (g) Interested Parties were required to submit binding offers to acquire the Stalking Horse Assets to the Receiver by no later than 12:00 p.m. (EST) on March 21, 2016 (the “**Bid Deadline**”). No offers were submitted to the Receiver prior to the Bid Deadline; and
- (h) On March 21, 2016, the Receiver advised Bradam that it was the only “Qualified Bidder” and the Stalking Horse APS was declared the “Winning Bid” in accordance with the Bidding Procedures.

### **The Transaction**

20. As noted in the First Report, the Receiver, Bradam and their respective counsel negotiated the terms and provisions of the Stalking Horse APS, a copy of which is attached hereto as **Appendix “F”**. The key elements of the Transaction are as follows (all terms not otherwise defined herein shall have the meanings as defined in the Stalking Horse APS):
- (a) Bradam is acquiring, on an “as is, where is” basis, substantially all of Elementa’s Property;
  - (b) the Stalking Horse Assets include all assets, undertakings and properties of Elementa, other than the Excluded Assets (as defined below), acquired for or used in relation to the Company’s business. Specifically, the purchased assets include Elementa’s shares in LP, Elementa Algoma Inc. and Elementa Holdings Ltd. as well as, but not limited to the following:
    - (i) the Inventory;
    - (ii) the Intellectual Property;
    - (iii) the Equipment;
    - (iv) all insurance policies and all claims to proceeds thereunder;
    - (v) any websites or other internet-based branding or marketing;
    - (vi) the Assumed Contracts;
    - (vii) the Books and Records;
    - (viii) the Licenses;
    - (ix) the Company’s goodwill; and
    - (x) other assets as detailed in the Stalking Horse APS (collectively, the “**Purchased Assets**”);



- (c) the Purchased Assets specifically exclude: cash, cash equivalents, pre-paid expenses, refunds, including, without limitation, insurance refunds and GST/HST rebates, as well as any of the Purchased Assets that Bradam elects to exclude from the Stalking Horse APS (collectively the “**Excluded Assets**”) at any time prior to Closing, upon written notice to the Receiver, provided, however, that there shall be no reduction in the purchase price as a result of such exclusion;
  - (d) the purchase price for the Purchased Assets is \$1,500,000 (the “**Purchase Price**”);
  - (e) Bradam has paid a deposit to the Receiver in the amount of \$150,000 (the “**Deposit**”) to be held in trust pending the completion of the Stalking Horse Sales Process. The Deposit is to be credited against the Purchase Price on the closing of the Transaction;
  - (f) as per the terms of the Stalking Horse APS, the Transaction is scheduled to close within three (3) business days of the Court granting the Approval and Vesting Order, but in no event later than April 8, 2016. Notwithstanding the closing date contemplated by the Stalking Horse APS, the Receiver was required to delay the bringing of its motion for approval of the Transaction pending the outcome of the Receiver’s motion for advice and directions regarding the April 2013 Agreement. As a result, Bradam agreed to extend closing until after the granting of the Approval and Vesting Order; and
  - (g) the only material conditions precedent to the Transaction are the Stalking Horse Bidder becoming the “Winning Bidder”, as contemplated by the Sales Process Order and the granting of a Vesting Order in favour of Bradam for the Purchased Assets.
21. Upon the waiver or satisfaction of the conditions precedent, the Receiver will file a certificate with the Court attesting that the Transaction has been completed to the satisfaction of the Receiver and confirming the closing of the sale for the Purchased Assets.
22. The Transaction contemplates the possibility that, in addition to an assignment of the SSM Project Contracts, Bradam may take an assignment of the units and shares of LP and its general partner and affiliate corporation. In this regard, the Receiver intends to request the Court to include these assets among the items to receive the benefit of the vesting order.

23. Currently, the Receiver has certainty of only one creditor who has a claim against LP which follows from a guarantee executed in favour of the claimant in respect of a judgment for wrongful dismissal against Elementa. This is an unsecured claim. Through counsel, the Receiver was in communication with the claimant when this claim was brought to the Receiver's attention and the Receiver will update the Court as to the status of their position at the hearing.
24. The Receiver is of the view that the Transaction represents the best recovery for the Purchased Assets in the circumstances. In particular, the Receiver is of the view that:
- (a) the Stalking Horse Sales Process, which was approved by the Court, was reasonable in the circumstances, transparent and carried out in accordance with the Sales Process Order;
  - (b) the Company was not operating as a going concern as at the Date of Appointment and, as such, there were limited viable options available to the Receiver to realize on the Property, which primarily consists of intellectual property rights;
  - (c) there is a limited market for the Purchased Assets. This market has been extensively canvassed both prior to the Date of Appointment by the Company, and as part of the Stalking Horse Sales Process by the Receiver, and all likely bidders have already been provided with an opportunity to bid on the Purchased Assets;
  - (d) the Stalking Horse APS was posted on the Receiver's website and available throughout the Stalking Horse Sales Process for Potential Bidders to review and consider in their assessment of the Property and the opportunity;
  - (e) the Transaction represents the best and highest offer received for the Purchased Assets and, in the Receiver's view, represents greater value than what could be achieved through the liquidation of the Purchased Assets;
  - (f) no funding is available to further market the Property. Even if there was, as noted above, the market has been fully canvassed and all likely bidders have already been provided with an opportunity to bid on the Purchased Assets. In the Receiver's view, any further marketing of the Property is not likely to result in increased realizations and, in fact, may put the Transaction at risk and impair recoveries;

- (g) Bennett Jones, the only party with an economic interest in the Transaction, was consulted in connection with the Transaction and approves the Transaction; and
- (h) the Transaction is the best opportunity to maximize recoveries for Elementa's creditors and provides the greatest benefit to all stakeholders (including the Corporation of the City of Sault Ste. Marie, 212 and the IESO) as it provides the best opportunity for the continuation of the Project.

**Recommendation**

25. Based on the foregoing, the Receiver respectfully recommends that the Court issue an order(s):
- (a) declaring Bradam the "Winning Bidder" in accordance with the terms of the Stalking Horse Sales Process/Bidding Procedures;
  - (b) approving the Transaction and authorizing and directing the Receiver to take all steps necessary to complete the Transaction; and
  - (c) vesting, upon the closing of the Transaction, all of Elementa's right, title and interest in and to the Purchased Assets to Bradam free and clear of all liens, security interests, charges and other encumbrances other than permitted encumbrances.

All of which is respectfully submitted this 8<sup>th</sup> day of April, 2016.

**Richter Advisory Group Inc.  
in its capacity as Receiver of  
Elementa Group Inc.**

Per:



Adam Sherman, MBA, CIRP  
Senior Vice President



Pritesh Patel, MBA, CFA, CIRP  
Vice President

**TAB J**

**RICHTER**

Richter Advisory Group Inc.  
181 Bay Street, 33<sup>rd</sup> Floor  
Toronto, ON M5J 2T3  
[www.richter.ca](http://www.richter.ca)

**ELEMENTA GROUP INC.**

**FOURTH REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS RECEIVER OF  
ELEMENTA GROUP INC.**

**MAY 5 , 2016**

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

**IN THE MATTER OF THE RECEIVERSHIP OF THE ELEMENTA GROUP INC.**

**FOURTH REPORT OF RICHTER ADVISORY GROUP INC.,  
IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF THE  
PROPERTIES, ASSETS AND UNDERTAKING OF  
ELEMENTA GROUP INC.**

**MAY 5, 2016**

## Introduction

1. On November 30, 2015, the Honourable Mr. Justice Hailey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), issued an interim order authorizing Richter Advisory Group Inc. (“**Richter**”) to take possession of Elementa Group Inc.’s (“**Elementa**” or the “**Company**”) computer server and certain boxes containing notes and other records referable to the data on the server, on an interim basis, as interim custodian pending the return of the application by Bennett Jones LLP (“**Bennett Jones**”) for the appointment of a receiver over the property, assets and undertakings of Elementa.
2. On December 21, 2015, the Court issued an order (the “**Appointment Order**”) appointing Richter as receiver (the “**Receiver**”) pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended and section 101 of the *Courts of Justice Act* R.S.O. 1990 c. 43, as amended, without security, of all of the properties, assets and undertakings (the “**Property**”) of Elementa. A copy of the Appointment Order is attached hereto as **Appendix “A”**.
3. On February 19, 2016, the Court issued an order (the “**Sales Process Order**”) approving the proposed sales process (the “**Sales Process**”), including the bidding procedures (the “**Bidding Procedures**”) to be used in connection with the Sales Process, as well as an Agreement of Purchase and Sale dated February 12, 2016 (the “**Stalking Horse APS**”) between the Receiver and Bradam Canada Inc. for the sale of substantially all of Elementa’s business and assets. A copy of the Sales Process Order is attached hereto as **Appendix “B”**.
4. On April 5, 2016, the Court issued an order (the “**April 5 Order**”) in connection with Receiver’s motion for advice and directions as to the nature and effect of a certain agreement among Elementa, Mr. Andrew Ferri, Northguard Capital Corp. and Elementa SSM Inc. (“**Elementa SSM**”) dated April 30, 2013, which by its terms purported to, among other things, effect a sale of a substantial portion of the Property to Elementa SSM (the “**April 2013 Agreement**”). The April 5 Order declared, among other things, that the April 2013 Agreement is an agreement that is subject to the provisions of the *Personal Property Security Act* (Ontario) and that the Property may be vested free and clear of the interests, of any nature and kind, created by the April 2013 Agreement. A copy of the April 5 Order is attached hereto as **Appendix “C”**.



5. On April 15, 2016, the Court issued an order (the “**Approval and Vesting Order**”) approving the designation of the Stalking Horse APS as the “Winning Bid” pursuant to the Sales Process Order, approving the sale transaction (the “**Transaction**”) between the Receiver and Bradam Canada Inc. (“**Bradam**” or the “**Purchaser**”) contemplated by the Stalking Horse APS, authorizing and directing the Receiver to complete the Transaction and vesting, upon closing of the Transaction, the Company’s right, title and interest in and to the Purchased Assets (as hereinafter defined) in the Purchaser or as it may direct, free and clear of all liens, charges, security interests and other encumbrances. A copy of the Approval and Vesting Order is attached hereto as **Appendix “D”**.

### **Purpose of this Report**

6. This report is the Receiver’s fourth report (the “**Fourth Report**”) to the Court, the purpose of which is to provide information to this Court in respect of the following:
- (a) an amendment to the Approval and Vesting Order to permit the Receiver to accept a promissory note for a portion of the Purchase Price (as hereinafter defined) payable for the Purchased Assets;
  - (b) the granting of a priority charge, in favour of the Receiver, to secure payment and performance of the obligations under the promissory note; and
  - (c) to seek an order of the Court:
    - (i) amending the Approval and Vesting Order to permit the Receiver to accept the promissory note in partial payment of the Purchase Price and granting the Receiver a priority charge over the Purchased Assets, as more particularly set out in the draft order filed in connection with the Receiver’s motion (the “**Draft Order**”);
    - (ii) authorizing and directing the Receiver to complete the Transaction in the manner set out in the Fourth Report; and
    - (iii) vesting, upon the closing of the Transaction, all of Elementa’s right, title and interest in and to the Purchased assets in Bradam free and clear of all liens, security interests, charges and other encumbrances other than the Receiver’s charge noted above.
7. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

## Background

8. As noted in the Receiver's first report dated February 16, 2016 (the "**First Report**"), the Sales Process provided a means for testing the market and a forum for prospective purchasers to present a bid(s) superior to that contemplated by the Stalking Horse APS on a timeline to meet the financial and timing exigencies of the Company's current circumstances. The key aspects of the Sales Process and its results are summarized as follows:
  - (a) the Receiver, in consultation with certain interested parties, assembled a list of potential interested parties, which included both strategic and financial purchasers located across the globe (collectively, the "**Potential Bidders**");
  - (b) commencing on February 19, 2016, the Receiver contacted 38 Potential Bidders to advise of the opportunity and the Sales Process, and provided each Potential Bidder with a copy of the initial offering summary (the "**Teaser Letter**") and a form of confidentiality agreement (the "**Confidentiality Agreement**");
  - (c) over the course of the Sales Process, the Receiver followed up with all Potential Bidders to confirm their receipt of the Teaser Letter and Confidentiality Agreement, and to gauge their interest in pursuing the opportunity;
  - (d) Potential Bidders interested in obtaining additional information regarding Elementa's business and/or assets were required to execute the Confidentiality Agreement in order to obtain access to an electronic data room (the "**Data Room**") to assist in due diligence efforts. A total of 6 parties executed the Confidentiality Agreement and were provided with data room access (the "**Interested Parties**");
  - (e) the Receiver assembled information in the Data Room, which contained financial, intellectual property and other information relevant to the Company's business and assets, as well as copies of the Stalking Horse APS and the Bidding Procedures;
  - (f) throughout the course of the Sales Process, the Receiver facilitated due diligence by Interested Parties, including updating the Data Room with current information and responding to any queries from Interested Parties, as required;

- (g) Interested Parties were required to submit binding offers to acquire all or part of the Property to the Receiver by no later than 12:00 p.m. (EST) on March 21, 2016 (the “**Bid Deadline**”). No offers were submitted to the Receiver prior to the Bid Deadline; and
- (h) On March 21, 2016, the Receiver advised Bradam that it was the only “Qualified Bidder” and the Stalking Horse APS was declared the “Winning Bid” in accordance with the Bidding Procedures.

### **The Transaction**

9. As noted in the First Report, the Receiver, Bradam and their respective counsel negotiated the terms and provisions of the Stalking Horse APS, a copy of which is attached hereto as **Appendix “E”**. The key elements of the Transaction are as follows (all terms not otherwise defined herein shall have the meanings as defined in the Stalking Horse APS):
- (a) the Purchaser is acquiring, on an “as is, where is” basis, substantially all of Elementa’s Property;
  - (b) the purchased assets include all assets, undertakings and properties of Elementa, other than the Excluded Assets (as defined below), acquired for or used in relation to the Company’s business. Specifically, the purchased assets include Elementa’s shares in Elementa Algoma LP, Elementa Algoma Inc. and Elementa Holdings Ltd. as well as, but not limited to the following:
    - (i) the Inventory;
    - (ii) the Intellectual Property;
    - (iii) the Equipment;
    - (iv) all insurance policies and all claims to proceeds thereunder;
    - (v) any websites or other internet-based branding or marketing;
    - (vi) the Assumed Contracts;
    - (vii) the Books and Records;
    - (viii) the Licenses;

- (ix) the Company's goodwill; and
  - (x) other assets as detailed in the Stalking Horse APS (collectively, the "**Purchased Assets**");
- (c) the Purchased Assets specifically exclude: cash, cash equivalents, pre-paid expenses, refunds, including, without limitation, insurance refunds and GST/HST rebates, as well as any of the Purchased Assets the Purchaser elects to exclude from the Stalking Horse APS (collectively the "**Excluded Assets**") at any time prior to Closing, upon written notice to the Receiver, provided, however, that there shall be no reduction in the purchase price as a result of such exclusion;
- (d) the purchase price for the Purchased Assets is \$1,500,000 (the "**Purchase Price**") payable in cash;
- (e) Bradam has paid a deposit to the Receiver in the amount of \$150,000 (the "**Deposit**") to be held in trust pending the completion of the Sales Process. The Deposit is to be credited against the Purchase Price on the closing of the Transaction;
- (f) as per the terms of the Stalking Horse APS, the Transaction was scheduled to close within three (3) business days of the Court granting the Approval and Vesting Order, but in no event later than April 8, 2016. Notwithstanding the closing date contemplated by the Stalking Horse APS, the Receiver was required to delay bringing its motion for approval of the Transaction pending the outcome of the Receiver's motion for advice and directions regarding a third party claim purporting to assert ownership in the Purchased Assets. This claim was disposed of pursuant to the April 5 Order. As a result, the Purchaser agreed to extend closing until after the granting of the Approval and Vesting Order; and
- (g) the only material condition precedent to the completion of the Transaction was the Court approving the Stalking Horse APS and the granting of the Approval and Vesting Order in favour of the Purchaser for the Purchased Assets, which condition has been satisfied.
10. Following the making of the Approval and Vesting Order, the Receiver and its counsel have been attempting to complete the Transaction. To date, the Receiver has been unable to do so by reason of the Purchaser's inability to raise the cash necessary to satisfy the Purchase Price, as contemplated in the Stalking Horse APS and the Approval and Vesting Order.

11. As at the date of this Fourth Report, including the Deposit, Bradam has paid the Receiver \$1,225,000 towards the Purchase Price to be held in escrow pending closing of the Transaction. The Purchaser has requested that the balance of the Purchase Price (\$275,000) be satisfied by way of a secured, interest bearing promissory note payable 90 days following the closing of the Transaction (the **"Promissory Note"**).
12. The Receiver has reviewed the affidavit material filed by the Purchaser in this matter and is of the view that the best course of action in the circumstances is to proceed to complete the Transaction by accepting cash proceeds of \$1,225,000 and the Promissory Note for the balance the Purchase Price.
13. The Receiver remains of the view that the Transaction represents the best recovery for the Purchased Assets in the circumstances.
14. The Receiver has been informed by Bennett Jones, the senior ranking secured creditor, that it supports the above-noted changes to the Transaction.
15. The Receiver is in receipt of a favourable opinion on the validity and enforceability of the Bennett Jones' security as against the Property. As the proceeds available from the Transaction will be insufficient to satisfy, in full, Bennett Jones' claim, there will be no funds available to satisfy the claims of other secured creditors with claims ranking subordinate to Bennett Jones or the claims of unsecured creditors. Accordingly, Bennett Jones is the only creditor who will be affected by the above-noted changes to the Transaction.
16. The Receiver also notes that the terms of the Draft Order include the authority to transfer the entitlement to enforce the Promissory Note and the accompanying court ordered charge. The Receiver requests this relief as it intends to seek a distribution order and its discharge prior to the expiry of the 90 day term of the Promissory Note. The transferee of such rights will then be entitled to stand in the shoes of the Receiver with respect to the Promissory Note and the charge.

### **Recommendation**

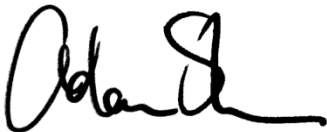
17. Based on the foregoing, the Receiver respectfully recommends that the Court issue an order substantially in the form of the Draft Order:
  - (a) amending the Approval and Vesting Order to permit the Receiver to accept the Promissory Note in partial payment of the Purchase Price and granting the Receiver a priority charge over the Purchased Assets, as more particularly set out in the Draft Order;

- (b) authorizing and directing the Receiver to complete the Transaction in the manner set out in the Fourth Report; and
- (c) vesting, upon the closing of the Transaction, all of Elementa's right, title and interest in and to the Purchased assets in Bradam free and clear of all liens, security interests, charges and other encumbrances other than the Receiver's charge.

All of which is respectfully submitted this 5<sup>th</sup> day of May, 2016.

**Richter Advisory Group Inc.  
in its capacity as Receiver of  
Elementa Group Inc.**

Per:



Adam Sherman, MBA, CIRP  
Senior Vice President



Pritesh Patel, MBA, CFA, CIRP  
Vice President

TAB K

2021929

**Ontario CERTIFICATE**  
 This is to certify that these articles are effective on

**Ontario CERTIFICAT**  
 Ceci certifie que les présents statuts entrent en vigueur le

**MAY 17 MAI, 2016**

*[Signature]*  
 Director / Directeur  
 Business Corporations Act / Loi sur les sociétés par actions

Form 3  
 Business Corporations Act

Formule 3  
 Loi sur les sociétés par actions

**ARTICLES OF AMENDMENT / STATUTS DE MODIFICATION**

1. The name of the corporation is: (Set out in BLOCK CAPITAL LETTERS)  
 Dénomination sociale actuelle de la société (écrire en LETTRES MAJUSCULES SEULEMENT) :

E	L	E	M	E	N	T	A	G	R	O	U	P	I	N	C	.

2. The name of the corporation is changed to (if applicable): (Set out in BLOCK CAPITAL LETTERS)  
 Nouvelle dénomination sociale de la société (s'il y a lieu) (écrire en LETTRES MAJUSCULES SEULEMENT) :

2	0	2	1	9	2	9		O	N	T	A	R	I	O		I	N	C	.

3. Date of incorporation/amalgamation:  
 Date de la constitution ou de la fusion :

2003 / 01 / 30

(Year, Month, Day)  
 (année, mois, jour)

4. **Complete only if there is a change in the number of directors or the minimum / maximum number of directors.**  
**Il faut remplir cette partie seulement si le nombre d'administrateurs ou si le nombre minimal ou maximal d'administrateurs a changé.**

Number of directors is/are: minimum and maximum number of directors is/are:  
 Nombre d'administrateurs : nombres minimum et maximum d'administrateurs :

Number minimum and maximum  
 Nombre minimum et maximum

**or**

5. The articles of the corporation are amended as follows:  
 Les statuts de la société sont modifiés de la façon suivante :

The name of the Corporation is changed from Elementa Group Inc. to 2021929 Ontario Inc.



6. The amendment has been duly authorized as required by sections 168 and 170 (as applicable) of the *Business Corporations Act*.  
La modification a été dûment autorisée conformément aux articles 168 et 170 (selon le cas) de la *Loi sur les sociétés par actions*.
7. The resolution authorizing the amendment was approved by the shareholders/directors (as applicable) of the corporation on  
Les actionnaires ou les administrateurs (selon le cas) de la société ont approuvé la résolution autorisant la modification le

2016 / 04 / 15

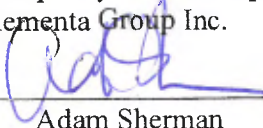
(Year, Month, Day)  
(année, mois, jour)

These articles are signed in duplicate.  
Les présents statuts sont signés en double exemplaire.

ELEMENTA GROUP INC.

(Print name of corporation from Article 1 on page 1)  
(Veuillez écrire le nom de la société de l'article un à la page une).

**RICHTER ADVISORY GROUP INC.,**  
in its capacity as Court Appointed Receiver  
of Elementa Group Inc.

Per:   
Adam Sherman

T A B L

*dedicated to your success*

April 18, 2016

Richter Advisory Group Inc.  
181 Bay Street  
33<sup>rd</sup> Floor  
Toronto, Ontario  
M5J 2T3

**Attention: Adam Sherman, Senior Vice-President**

**Re: Review of certain security granted by Elementa Group Inc. (“EGI”) in favour of Bennett Jones LLP (“BJ”) pursuant to a General Security Agreement made as of June 12, 2014 (as defined below)**

In connection with your acting as Receiver of the assets, property and undertakings of EGI, you have asked us to provide our views in respect of the Security Documents (as defined below).

This opinion is provided to you in your capacity as Receiver and is limited to our review of copies of the following documents entered into by EGI and BJ:

- (a) a general security agreement made as of June 12, 2014 between EGI and BJ (the “GSA”);
- (b) notice of security interest in intellectual property made September 28, 2015 (the “Notice”); and
- (c) Engagement letter dated May 3, 2012 between EGI and BJ setting out, among other things the scope of services to be provided to EGI (“the “Engagement”);

The documents in (a), (b), and (c) above are, collectively, referred to herein as the “**Security Documents**”.

In conducting our review and for the purposes of the opinions given herein, we have made the assumptions contained herein and as set out in Schedule “A” attached hereto (collectively, the “**Assumptions**”). Additionally, our opinions herein are subject to the qualifications and limitations contained herein and as set out in Schedule “B” attached hereto (collectively, the “**Qualifications**”). We confirm that the restrictions and limitations on this report, as herein contained, are satisfactory to you.

The undertaking, business, property, assets, interests, and rights of EGI in which BJ has been granted a security interest pursuant to the terms of the GSA are collectively referred to herein as the “**Charged Property**”.

We have made no investigation of the laws of any jurisdiction other than, and the opinions hereinafter expressed are restricted to, the laws of the Province of Ontario and the federal laws of Canada applicable therein as of the date hereof and, insofar as the laws of other jurisdictions are relevant, we express no opinion thereon. Without limiting the foregoing, we express no opinion with respect to:

- (a) the laws of any other jurisdiction to the extent such laws may govern any aspect of the Security Documents or govern the validity, the perfection, the effect of perfection or non-perfection, or the enforcement of any Security Interests created thereunder as a result of the application of the conflict of laws rules of Ontario, including, without limitation, Sections 5 to 8.1 of the *Personal Property Security Act* (Ontario) (the “**Ontario PPSA**”); or,
- (b) whether, pursuant to the conflict of laws rules of any other jurisdiction, the laws of Ontario would govern the validity, perfection, the effect of perfection or non-perfection, or enforcement of any security interests created by the Ontario Security Documents.

In connection with this opinion, no review has been made of any of the transactions, agreements, indentures or other instruments of EGI for the purposes of identifying matters described in this opinion, other than a review of the Security Documents

We have considered such questions of law as we have considered relevant and necessary as a basis for the opinions hereinafter expressed.

## **OPINIONS**

Subject to the assumptions, qualifications and comments we have made herein and in the Schedules attached hereto, and the Discussion contained below, we are of the opinion that:

1. The GSA constitutes a valid and binding obligation of EGI, each enforceable against EGI in accordance with its terms;
2. The GSA creates in favour of BJ, a valid security interest in the Charged Property identified therein to which the Ontario PPSA applies; and,
3. The GSA has been registered, filed or recorded in all public offices where the registration, filing or recording thereof is required under the laws of the Province of Ontario to perfect the security interest created by such Security Document in the applicable Charged Property to which the Ontario PPSA applies, as well as in the registry of the Canadian Intellectual Property Office (“**CIPO**”) in respect of the patents forming part of the Charged Property.

## **RELIANCE**

All opinions expressed herein are provided to you and are for the purpose of the performance of your responsibilities as Receiver including reporting to the Court and creditors, and including any future appointment in respect of EGI, and may not be relied on by any other person, firm, corporation or entity without the prior written consent of Goldman, Sloan, Nash & Haber LLP. This opinion is given as of the date hereof and we do not undertake, and hereby expressly disclaim, any obligation to advise you of any change in any matters set forth herein.

## **SEARCHES CONDUCTED**

We have conducted, or have caused to be conducted, such public registration searches for filings or registrations made in Ontario, in the applicable offices of public record, against EGI as we have deemed appropriate. These searches include corporate profile searches and Ontario PPSA searches, all as more specifically set out in **Schedule “C”** attached hereto. The searches were conducted in respect of the current legal name of EGI, in each case as of the dates set forth in **Schedule “C”**.

## **DISCUSSION**

During the course of the receivership, a creditor of EGI raised an argument challenging the enforceability of the GSA against EGI on the basis that the GSA was obtained without the benefit of the client having obtained independent legal advice or having been fully informed so as to determine that the transaction was fair, or that because of the lack of that information the client was placed at a disadvantage. In reviewing the case relied upon by the creditor in making the assertion as to the enforceability of the GSA, we cannot find any application to the facts of this case.

EGI was in need of legal services and was unable to pay for them. In the cited correspondence between the then Chairman of EGI’s board it is clear that both the questions raised and the answers given by BJ directly addressed the issues confronting the parties at that point and accurately stated the law and effects therefrom insofar as Elementa was concerned in relation to its other creditors.

Based on this dialogue, we can find no basis to conclude that BJ had either failed to advise EGI on the issue of independent legal advice and that when asked by the EGI’s Chairman to address the effects of the granting of security on the other purported secured creditors of EGI, BJ did so explicitly.

Having granted the security, EGI received substantial benefits in the form of continuing to receive legal fees on the foundation of the security.

Accordingly, we see no basis in law to infer that the GSA is unenforceable on the basis alleged.

We confirm your advice that our review based upon these searches, and our reliance upon such searches in giving the opinions set out herein, is satisfactory for your purposes at this time

We trust that the foregoing is satisfactory. Should you have any questions or comments, please do not hesitate to contact us.

Yours truly,

GOLDMAN, SLOAN, NASH & HABER LLP

A handwritten signature in black ink, appearing to be a stylized name, positioned below the firm name.

**SCHEDULE "A"****ASSUMPTIONS****A. Authenticity and Accuracy**

We have assumed the genuineness of all signatures and the authenticity and completeness of all documents submitted to us as copies thereof. We have also assumed the accuracy and currency of: (i) all indices, filing and registration systems maintained at the public offices where we have searched or inquired or have caused searches or inquiries to be conducted, as set forth herein; (ii) all search results obtained by electronic transmission; and (iii) the results of any printed or computer search of any office of public record.

**B. Authority**

We have assumed that:

- (a) EGI was a duly incorporated and validly existing corporation at the time that each Security Document was authorized, executed and delivered, and that EGI has continued to be duly incorporated and validly existing since that time;
- (b) EGI had the requisite corporate power, capacity and authority to enter into and perform its obligations under each of the Security Documents at the time each of the Security Documents was authorized, executed and delivered; and
- (c) all necessary corporate action and proceedings had been taken by EGI to authorize the execution, delivery and performance of each of the Security Documents.

**C. Security Documents**

We have assumed that none of the Security Documents have been assigned, released, discharged or otherwise impaired, either in whole or in part, and there are no agreements that are relevant to the matters discussed in this letter.

**D. Existence of Debt and Security Matters**

We have assumed that:

- (a) valuable consideration has been given to EGI and payment and other obligations remain outstanding by EGI under the agreements identified herein;
- (b) each of the GSA and Notice were duly executed and delivered by EGI;
- (c) all of the conditions precedent contained in each of the Security Documents, if any, were satisfied or waived;

- (d) attachment of the security interests created by the GSA has occurred within the meaning of the Ontario PPSA;
- (e) EGI has an interest in its collateral expressed to be subject to the GSA; and
- (f) insofar as any obligation under any of the Security Documents is to be performed in any jurisdiction outside the Province of Ontario, its performance will not be illegal or unenforceable by virtue of the laws of that other jurisdiction.

**E. Factual Matters**

We have assumed that no fact exists, or has existed, that would entitle EGI to assert or obtain a remedy at law or in equity (such as, without limitation, rectification, rescission or release from a contract through frustration) affecting the validity, legality, binding effect or enforceability of any of the Security Documents.

**F. Entire Agreement**

We have assumed that there is no written or oral agreement or other facts or understanding and there is no trade usage or course of conduct or prior dealing, that would vary the interpretation, application or enforceability of any term or condition of the Security Documents, and that except as expressly noted herein, there have been no amendments, restatements, deletions or other modifications to the Security Documents.

**G. Choice of law**

We have assumed that the choice of the law of the Province of Ontario as the governing law of the Security Documents will be given effect to in any legal proceedings.



**SCHEDULE "B"**  
**QUALIFICATIONS**

1. **Title:** We express no opinion concerning:
  - (a) title to any property that is purportedly subject to any security interest created by the GSA and such title has been assumed to the full extent necessary to express the opinions contained herein; and,
  - (b) the effectiveness of the GSA as security, where effectiveness depends on title or description of the property purported to be charged or assigned, as the case may be.
  
2. **Enforceability:** All opinions that expressly or by necessity relate to the enforceability of each of the Security Documents (which, as used in this Schedule and as the context may require, includes validity, legality and binding effect) are subject to:
  - (a) applicable bankruptcy, insolvency, winding up, arrangement, liquidation, fraudulent preference and conveyance, reorganization, moratorium and realization laws and other similar laws (including, without limitation and notwithstanding any specific references herein, provisions of the Ontario PPSA affecting the rights and remedies of creditors generally);
  - (b) equitable limitations on, and defences against, the availability of remedies and equitable principles of application to particular proceedings at law or in equity, and no opinion is expressed regarding the availability of any equitable remedy (including those of specific performance and injunction), which remedies are only available in the discretion of a court of competent jurisdiction;
  - (c) the power of a court to grant relief from forfeiture;
  - (d) applicable laws regarding limitations of action;
  - (e) the court's powers to stay proceedings and execution of judgments;
  - (f) the court's discretion to decline to hear any action or give effect to an obligation if to do so would be contrary to public policy or if it is not the proper forum to hear such action;
  - (g) limitations that may be imposed by law or equity on the effectiveness of terms exculpating a party from a liability or limiting the liability of a party;
  - (h) limitations upon the right of a creditor to receive immediate payment of amounts stated to be or which may become payable on demand;

- (i) limitations upon the right of a party to enforce a provision based upon a minor or non-substantive default;
- (j) implied obligations requiring good faith, fair-dealing and reasonableness in performance and enforcement of a contract; and,
- (k) the following limitations:
  - (i) provisions that purport to establish evidentiary standards, such as provisions stating that certain calculations or certificates will be conclusive and binding, may not be enforceable or may be limited in application;
  - (ii) the *Courts of Justice Act* (Ontario) limits interest on a judgment debt arising under the judgment of a court of competent jurisdiction located in Ontario to rates prescribed by regulation from time to time;
  - (iii) the *Currency Act* (Canada) precludes a court in Canada from rendering a judgment in any currency other than Canadian currency.
  - (iv) rights of indemnity may be limited by applicable law;
  - (v) determinations or demands made in exercise of a discretion may be unenforceable if made in an unreasonable or arbitrary fashion;
  - (vi) provisions providing for recovery of fees and expenses may be restricted by a court to a reasonable amount and counsel fees are subject to taxation;
  - (vii) no opinion is expressed as to the enforceability of any provision that purports to provide for a higher rate of interest after default than before;
  - (viii) no opinion is expressed as to the enforceability of a provision of the Security Documents that provides that the provisions of another document govern in the event of any conflict or inconsistency between the provisions of the other document and such Security Document;
  - (ix) the validity and enforceability of provisions that purport to sever from the Security Documents any provision that is prohibited or unenforceable under applicable law without affecting the enforceability or validity of the remainder of the agreement or instrument may be subject to the discretion of a court of competent jurisdiction;
  - (x) no opinion is expressed as to the enforceability of any provision purporting to exclude unwritten variations, amendments, waivers or consents;
  - (xi) no opinion is expressed as to the enforceability of any provision that purports to restrict the access to, or waive the benefit of, legal or equitable

rights, remedies or defences, including any right to receive notice (including notice of enforcement) or that purport to consent in advance to the taking of any action or the exercise of any right, remedy or defence;

- (xii) no opinion is expressed as to the enforceability of any power of attorney or non-judicial remedies provided for in the GSA;
  - (xiii) no opinion is expressed as to any licences, permits or approvals that may be required in connection with the enforcement or performance of the GSA, or by EGI, or by any person on its behalf, whether such enforcement involves the operation of the business of EGI or a sale, transfer or disposition of any of its property or assets;
  - (xiv) no opinion is expressed as to the enforceability of any provision in any of the GSA that purports to constitute a receiver or receiver and manager thereunder as agent of EGI or absolve a receiver or receiver and manager of responsibility for its acts;
  - (xv) no opinion is expressed as to the enforceability of any provision in any of the Security Documents that purports to grant a security interest or hypothec in federal Crown debts to which the *Financial Administration Act* (Canada) applies;
  - (xvi) no opinion is expressed as to the enforceability of any provision that contemplates or provides for agreement at a later date;
  - (xvii) no opinion is expressed as to the enforceability of any provision that purports to relieve any party thereto, or its agents, from liability for its own acts;
  - (xviii) no opinion is expressed as to the enforceability of any provision that purports to bind or affect, or confer a benefit upon, persons who are not parties to the Security Documents; and,
  - (xix) remedies exercisable upon default in any of the GSA must be exercised in good faith and in a commercially reasonable manner.
3. **Searches:** We have only conducted those searches described in Schedule “C” hereto. Except as set forth therein, we have not conducted any land titles office or other searches with respect to encumbrances against real or immovable property or any interests therein or any statutory lien, court registry or other searches, except as set out in Schedule “C” hereto. We have only searched against the names set out in Schedule “C” hereto.
4. **Priority:** No opinion is expressed as to the rank or priority, or as to the effect of perfection or opposability to third parties on the rank or priority, of any security interest created by the GSA.

5. **Reviewable Transactions:** No opinion is given as to whether any security interest given under the GSA constitutes a fraudulent preference or other attackable or reviewable transaction pursuant to the provisions of the *Bankruptcy and Insolvency Act* (Canada) or any applicable provincial legislation.
6. **Security Interests and Registrations:** We express no opinion:
  - (a) as to the validity, enforceability, creation, attachment or perfection of a security interest in:
    - (i) property consisting of a receivable, licence, approval, privilege, contractual right, franchise, permit or lease (collectively, “**Special Property**”) to the extent that the terms of the Special Property, any applicable law or the nature of the business of EGI prohibit its charging, assignment or hypothecation or require, as a condition of its charging, assignability or hypothecation, a consent, approval or other authorization or registration that has not been made or given;
    - (ii) any collateral to the extent that security agreements, hypothecs or assignments with respect to such collateral are governed by the laws of the Parliament of Canada, including, without limitation, any vessel registered under the *Canada Shipping Act* (Canada), any rolling stock and any trademark, trade name, copyright, industrial design or other intellectual property right, other than patents; pursuant to the Patent Act (Canada);
    - (iii) permits, quotas, licences, privileges, governmental authorizations or other property that are not personal property and that are held by or issued to or in favour of EGI;
    - (iv) any interest in a right to damages in tort or at law;
    - (v) any interest in deposits/deposit accounts;
    - (vi) property for which, pursuant to applicable conflicts rules (including, without limitation, the conflicts rules of the Ontario PPSA and the *Securities Transfer Act* (Ontario)), the validity, perfection and the effect of perfection or non-perfection or enforcement are governed by the laws of a jurisdiction other than such Provinces;
    - (vii) property that is now or hereafter becomes a fixture, crop, timber, minerals, petroleum, natural gas or other deposits located therein or thereon, or any right of payment that arises in connection with an interest in land;
    - (viii) property or rights of a nature listed in section 4(1) of the Ontario PPSA; or
    - (ix) property that is Consumer Goods or a Security (as each is defined in the Ontario PPSA);

- (b) as to any registrations or filings by way of fixtures notice, floating charge on land or otherwise in any land title office in the Province of Ontario; and
  - (c) regarding the creation, validity, enforceability, attachment or perfection of any mortgage, charge, hypothec, security interest or other interest expressed to be created by or under the GSA with respect to any property of EGI or any proceeds of such property that are not identifiable or traceable.
7. **Specific Collateral:** Any security interests created by the GSA in any equipment that is a Motor Vehicle (as defined in the Ontario PPSA) situate in the Province of Ontario have not been perfected or rendered opposable to third parties by registration against serial numbers or Vehicle Identification Numbers, as the case may be, as required thereunder. Accordingly, any hypothecs, security interests and mortgages on such property will be subject to the rights of third parties who at any time acquire and perfect or render opposable to third parties an interest in those assets.
8. **Maintaining Perfection:** We express no opinion with respect to maintaining perfection of any security interest created by the GSA.

**SCHEDULE “C”**

**LIST OF SEARCHES COMPLETED FOR EGI**

**I. CORPORATION SEARCH**

A corporation profile report (the “Profile Report”) dated April • , 2016 was obtained for EGI from the Ontario Ministry of Government Services. The Profile Report confirmed that EGI is a corporation amalgamated in Ontario, is an “active” corporation, and the registered office address of the corporation is • .

**II. PPSA SEARCH**

We have obtained a search against EGI from the registry maintained under the Ontario PPSA in order to determine whether registrations or filings have been made in connection with the GSA.

These searches, with a file currency date of April • , 2016, have disclosed the following registrations:

1.	File Number	696812553
	Registration Number	20140605 0927 186233349
	Registration Period	5 years
	Debtor	Elementa Group Inc.
	Secured Party	Bennett Jones LLP
	Collateral Classification	Inventory, equipment, accounts, other, motor vehicle
	Collateral Description	NONE
	Expiry date	Original expiry date: 2019 06 05
	Amendments	None

2.	File Number	698096322
	Registration Number	20140717 1127 1031 4420
	Registration Period	5 years
	Debtor	Elementa Group Inc.
	Secured Party	Her Majesty in Right of Ontario (Minister of Finance)
	Collateral Classification	Inventory, equipment, accounts, other
	Collateral Description	None
	Expiry date	Original expiry date: 2019 07 17
	Amendments	NONE

3.	File Number	700609284
	Registration Number	2014 1010 1024 1590 1821
	Registration Period	5 years
	Debtor	Elementa Group Inc.
	Secured Party	2124732 Ontario Inc., Gary Blokhuis Gary Blokhuis d.b.a. Blokhuis Holdings
	Collateral Classification	Inventory, equipment, accounts, other
	Collateral Description	NONE
	Expiry date	Original expiry date: 2019 10 01
	Amendments	NONE

4.	File Number	702487854
	Registration Number	2014 1219 1427 6083 0289
	Registration Period	5 years
	Debtor	Elementa Group Inc.
	Secured Party	Sharon D'Amico
	Collateral Classification	Other
	Collateral Description	NONE
	Expiry date	Original expiry date: 2019 12 19
	Amendments	

5.	File Number	702487881
	Registration Number	2014 1219 1429 6083 0290
	Registration Period	5 years
	Debtor	Elementa Group Inc.
	Secured Party	David D'Amico
	Collateral Classification	Other
	Collateral Description	NONE
	Expiry date	Original expiry date: 2019 12 19
	Amendments	



**III. CANADIAN INTELLECTUAL PROPERTY OFFICE**

1.	Registration Number	05680700
	Document	Security Agreement
	Patent	2,581,288
	Registrant	Bennett Jones LLP
	Collateral Classification	N/A
	Collateral Description	NONE

TAB M

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

**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

**AFFIDAVIT OF ADAM SHERMAN**


I, **ADAM SHERMAN**, of the city of Vaughan, in the Province of Ontario, **MAKE OATH AND SAY** that:

1. I am a Senior Vice President of Richter Advisory Group Inc. ("**Richter**") and, as such, I have knowledge of the matters hereinafter deposed to except where stated to be on information and belief, and whereso stated, I verily believe it to be true.
2. On November 30, 2015, the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), issued an interim order (the "**Interim Order**") authorizing Richter to take possession of Elementa Group Inc.'s ("**Elementa**" or the "**Company**") computer server and certain boxes containing notes and other records referable to the data on the server, on an interim basis, as interim custodian pending the return of the application by Bennett Jones LLP for the appointment of a receiver over all of the property, assets and undertakings of Elementa (the "**Property**").
3. By order (the "**Appointment Order**") of the Court dated December 21, 2015, Richter was appointed receiver (the "**Receiver**") of the Property, pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.
4. Pursuant to the Interim Order, the Appointment Order and other subsequent orders issued by the Court in these proceedings, Richter and/or the Receiver have provided services and incurred disbursements, in the amount of \$222,747.50 and \$4,680.12 (all excluding HST), respectively, in the period from November 30, 2015 to May 27, 2016 (the "**Period**"). Attached hereto and marked as Exhibit "A" to this my Affidavit is a summary of all invoices rendered by Richter and/or the Receiver on a periodic basis during the Period (the "**Accounts**").


5. True copies of the Accounts, which include a fair and accurate description of the services provided along with hours and applicable rates claimed by Richter and/or the Receiver, are attached as Exhibit "B" to this my Affidavit.
6. Richter, in its capacity as Receiver, has previously filed four reports with the Court (the "**Previous Reports**"). In addition, and contemporaneously with the filing of this Affidavit, the Receiver is filing its fifth report to the Court with respect to the receivership proceedings (the "**Fifth Report**"). Details of the activities undertaken and services provided by Richter and/or the Receiver in connection with the administration of the receivership proceedings are described in the Previous Reports and the Fifth Report.
7. In the course of performing its duties pursuant to the Interim Order, the Appointment Order and other subsequent Orders issued by the Court in these proceedings, the Receiver's staff has expended a total of 430.75 hours during the Period. Attached as Exhibit "C" to this my Affidavit is a schedule setting out a summary of the individual staff involved in the administration of the receivership and the hours and applicable rates claimed by Richter and/or the Receiver for the Period. The average hourly rate billed by the Receiver during the Period is \$517.12.
8. The total amount of professional fees and disbursements being claimed for work performed by Richter and/or the Receiver during the Period is \$227,427.62 (excluding HST).
9. The Receiver requests that this Court approve the Accounts for the Period, in the total amount of \$227,427.62 (excluding HST) for services rendered and recorded during the Period.
10. Goldman Sloan Nash & Haber LLP ("**GSNH**"), as independent legal counsel to the Receiver, has provided legal services to the Receiver, rendered services throughout these proceedings in a manner consistent with the instructions of the Receiver and has prepared an affidavit with respect to the services rendered during the period November 30, 2015 to May 24, 2016. The Receiver has reviewed the invoices rendered by GSNH during the period November 30, 2015 to May 24, 2016.
11. The Receiver's fees and disbursements for the period from May 28, 2016 to the completion of all work relating to the receivership proceedings will be calculated and billed at the standard rates currently in effect. Barring unforeseen circumstances, I estimate that those fees and disbursements will not exceed \$25,000 (excluding HST), including the fees and disbursements of legal counsel.

12. To the best of my knowledge, the rates charged by the Receiver and GSNH are comparable to the rates charged for the provision of similar services by other accounting and law firms in downtown Toronto.
13. I verily believe that the fees and disbursements incurred by the Receiver and GSNH are fair and reasonable in the circumstances.
14. This Affidavit is sworn in connection with a motion for an Order of this Court to, among other things, approve the fees and disbursements of Richter and/or the Receiver and those of its legal counsel and for no improper purpose.

SWORN BEFORE ME at the City of  
Toronto, in the Province of Ontario,  
This 31<sup>st</sup> day of May, 2016

  
\_\_\_\_\_  
Commissioner for Taking Affidavits, etc  
Sanja Sopic

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Adam Sherman

This is Exhibit "A" referred to in the Affidavit of  
Adam Sherman, sworn before me this  
31<sup>st</sup> day of May, 2016

A handwritten signature in black ink, appearing to be "A. L. L.", written over a horizontal line.


Commissioner for Taking Affidavits, etc

**Richter Advisory Group Inc.**  
**in its capacity as Receiver of**  
**Elementa Group Inc.**  
**Statement of Accounts**

**Exhibit "A"**

<b>Invoice #</b>	<b>Period</b>	<b>Fees</b>	<b>Disbursements</b>	<b>Sub total</b>	<b>HST</b>	<b>Total</b>
20400885	November 30, 2015 to April 15, 2016	189,051.50	4,623.12	193,674.62	25,177.70	218,852.32
20400904	April 16, 2016 to May 27, 2016	33,696.00	57.00	33,753.00	4,387.89	38,140.89
<b>Total</b>		<b>222,747.50</b>	<b>4,680.12</b>	<b>227,427.62</b>	<b>29,565.59</b>	<b>256,993.21</b>

This is Exhibit "B" referred to in the Affidavit of  
Adam Sherman, sworn before me this  
31<sup>st</sup> day of May, 2016



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Commissioner for Taking Affidavits, etc



# RICHTER

Richter Advisory Group Inc.  
Receiver re: Elementa Group Inc.  
181 Bay Street, 33rd Floor  
Toronto, Ontario M5J 2T3

Date: 05/25/2016  
Invoice No.: 20400885  
Engagement No.: 2020396  
Payment Terms: Due on Receipt

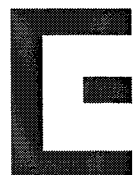
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Professional services rendered to April 15, 2016	\$ 189,051.50
Disbursements	4,623.12
<b>Sub-Total</b>	<hr/> 193,674.62
GST/HST #885435842 RT0001	25,177.70
<b>Total Due</b>	<hr/> <b>CAD \$ 218,852.32</b>

T. 416.488.2345

Richter Advisory Group Inc.  
181 Bay St., Suite 3320  
Bay Wellington Tower  
Toronto, ON M5J 2T3  
www.richter.ca

Toronto, Montreal



Invoice No.: 20400885  
Date: 05/25/2016



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**Fees**

<b>Name</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Adam Sherman	151.50	\$ 650.00	\$ 98,475.00
Ann Stremski	7.30	185.00	1,350.50
Carol O'Donnell	2.40	185.00	444.00
Dale Millstein	121.45	350.00	42,507.50
Pascale Lareau	1.10	185.00	203.50
Paul Van Eyk	11.50	650.00	7,475.00
Pritesh Patel	64.75	550.00	35,612.50
Raymond Vankrimpen	2.00	650.00	1,300.00
Soazig Bourguine	9.10	185.00	1,683.50
	<b>371.10</b>		<b>\$ 189,051.50</b>

**Disbursements**

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Disbursements and other out-of-pocket expenses, including kilometres, postage, photocopying, courier, storage, etc.			\$ 4,623.12
			<b>\$ 4,623.12</b>

Invoice No.: 20400885  
Date: 05/25/2016



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**Fee and Disbursement Details**

<b>Date</b>	<b>Name and Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
11/30/2015	Adam Sherman Attendance in Court re application for appointment of Receiver, including discussions with various counsel in attendance. Discussions and emails with D. Millstein re taking possession, etc. Emails from M. Forte and G. Finlayson re Court order.	2.00	\$ 650.00	\$ 1,300.00
11/30/2015	Dale Millstein Attendance in Court re application for appointment of Receiver. Collected intellectual property materials from the Elementa office. Unloaded and secured the aforementioned materials at the Richter office.	3.00	350.00	1,050.00
11/30/2015	Dale Millstein Roundtrip travel time between Richter Office to Elementa Office.	3.50	350.00	1,225.00
11/30/2015	Dale Millstein Attended Court re: Elementa Custodian appointment.	1.00	350.00	350.00
12/01/2015	Adam Sherman Email/call with G. Rawson. Email from J. Ashbourne re resignation of BOD. Email from S. Sopic attaching court order. Emails from G. Finlayson.	1.00	650.00	650.00
12/02/2015	Soazig Bourgine Communication with A. Sherman.	0.20	185.00	37.00
12/03/2015	Dale Millstein Inventoried items collected (i.e. boxes, computer hardware and schematics etc.) on November 30, 2015.	2.00	350.00	700.00
12/04/2015	Adam Sherman Emails with G. Rawson re Elementa due diligence package, including review of same. Emails with J. Ashbourne.	0.50	650.00	325.00
12/09/2015	Adam Sherman Emails with M. Forte re draft Court order, Court tomorrow, etc. Emails from B. Marshall and J. Woycheshyn re draft Order. Emails with P. van Eyk.	0.20	650.00	130.00
12/10/2015	Paul Van Eyk Attendance in court re update for Justice Hainey.	1.00	650.00	650.00
12/11/2015	Carol O'Donnell Review POC filed by the MOF re EHT and save for potential filing.	0.20	185.00	37.00

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Date	Name and Description	Hours	Rate	Amount
12/21/2015	Pascale Lareau Working on Creditors list.	0.80	185.00	148.00
12/21/2015	Carol O'Donnell Discussion with A. Sherman regarding mandate, update list of creditors and email to A. Sherman. Instructions to S. Bourgine to complete file.	0.40	185.00	74.00
12/21/2015	Soazig Bourgine Website posting.	0.60	185.00	111.00
12/21/2015	Dale Millstein Email for creditor listing and shortlisted targets.	1.00	350.00	350.00
12/22/2015	Soazig Bourgine Motion & Order faxed to OSB, follow up on file.	0.80	185.00	148.00
12/22/2015	Dale Millstein Sorted through company information to populate draft creditor listing.	1.00	350.00	350.00
12/23/2015	Carol O'Donnell Telephone conversation with A. Sherman regarding form 87, creditor list and shareholder list.	0.10	185.00	18.50
12/23/2015	Soazig Bourgine Form 87 & EIS (draft), emails to A.Sherman.	1.00	185.00	185.00
12/29/2015	Carol O'Donnell Communications with A. Sherman regarding creditor list, form 87.	0.20	185.00	37.00
12/30/2015	Carol O'Donnell Review mailing and creditor list.	0.20	185.00	37.00
12/30/2015	Ann Stremski Update information summary; edit and prepare creditor list for import; communications with A. Sherman; prepare mailing; fax OSB; e.mail mailing of Notice; posting to website.	4.50	185.00	832.50
01/04/2016	Soazig Bourgine Follow up on file, email to A.Sherman, email to MMarshall (OSB).	0.50	185.00	92.50
01/04/2016	Raymond Vankrimpen Assist with accessing Elementa server.	1.00	650.00	650.00
01/04/2016	Adam Sherman	4.50	650.00	2,925.00

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Date	Name and Description	Hours	Rate	Amount
01/04/2016	Emails/calls with M. Forte. Emails/calls with J. Ashbourne. Conference call with F. Sulley, R. Finkbeiner, B. Cohen and M. Forte. Calls/emails with J. Howe. Emails/calls with Bennett Jones. Email from G. Phoenix. Discussions with Richter team.	2.00	550.00	1,100.00
01/04/2016	Pritesh Patel Attendance on call with prospective purchaser re interest in potential stalking horse bid. Call with J.Ashbourne regarding receivership issues. Review of background materials and discussion with A. Sherman on same.	4.60	350.00	1,610.00
01/04/2016	Dale Millstein Setup data room for due diligence. Preparation of draft teaser for sales process.	0.20	185.00	37.00
01/05/2016	Soazig Bourguine Email to A. Sherman re. redirection of mail, follow up on file.	0.40	185.00	74.00
01/05/2016	Soazig Bourguine Communications with OSB, certificate posted on website.	1.00	650.00	650.00
01/05/2016	Raymond Vankrimpen Assist with accessing Elementa server.	5.00	650.00	3,250.00
01/05/2016	Adam Sherman Emails with J. Ashbourne. Calls/emails with several parties interested in the Elementa assets. Emails/discussions with Richter team. Call with G. Phoenix. Calls/emails with M. Forte. Email from E. Oliver. Several calls with creditors. Review data room.	1.50	550.00	825.00
01/05/2016	Pritesh Patel Update call with counsel. Discussions with D.Millstein re teaser and dataroom. Review of sales process documents.	4.20	350.00	1,470.00
01/05/2016	Dale Millstein Updates and edits to Elementa teaser.	7.00	650.00	4,550.00
01/06/2016	Adam Sherman Calls/emails with several parties interested in Elementa's assets. Emails with G. Phoenix. Attendance at Elementa's office, including emails with the landlord and its counsel. Emails with M. Forte. Email from J. Ashbourne. Discussions with Richter team.	1.30	550.00	715.00
01/06/2016	Pritesh Patel			

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Date	Name and Description	Hours	Rate	Amount
	Calls to parties in possession/storage of Elementa assets. Call with potential interested party re Kiln and associated systems. Investigation into sales process bid procedures.			
01/06/2016	Dale Millstein Attendance at Elementa offices to collect relevant Elementa books and records. Conducted office walkthrough. Crafted email to E. Dueck re: items for the data room.	6.50	350.00	2,275.00
01/07/2016	Soazig Bourgine Redirection of mail, email to DMillstein, purchase order.	0.50	185.00	92.50
01/07/2016	Adam Sherman Emails/calls with several parties interested in Elementa's assets. Emails from/to S. Sopic and M. Forte. Emails from/to F. Sulley re various matters, including Bradam proposed term sheet. Emails/discussions with Richter team. Email from E. Oliver.	5.00	650.00	3,250.00
01/07/2016	Pritesh Patel Review of cease and desist letters from counsel. Review of term sheet.	0.50	550.00	275.00
01/07/2016	Dale Millstein Developed asset listing for data room.	0.70	350.00	245.00
01/08/2016	Ann Stremski Verify mail affidavit and make changes.	0.30	185.00	55.50
01/08/2016	Soazig Bourgine Affidavit, email to DMillstein re missing addresses.	0.50	185.00	92.50
01/08/2016	Adam Sherman Emails from J. Ashbourne. Emails/calls with parties interested in the Elementa assets. Email from M. Forte re Bradam proposed term sheet. Emails/discussions with Richter team.	3.00	650.00	1,950.00
01/08/2016	Pritesh Patel Review of documentation in dataroom. Follow-up call with prospective purchaser. Call with counsel re term sheet markup.	1.20	550.00	660.00
01/08/2016	Dale Millstein Sorted files for data room. Contact with J. Ashbourne and E. Dueck re: review of data room. Set up prospective buyers with access to data room. Searched Elementa server for relevant information.	5.80	350.00	2,030.00
01/09/2016	Adam Sherman	0.60	650.00	390.00

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Date	Name and Description	Hours	Rate	Amount
	Several emails from/to Mr. S. Kim re interest in Elementa's assets, data room access and further due diligence requests.			
01/10/2016	Adam Sherman Several emails from/to Mr. S. Kim re interest in Elementa's assets, sales process and other matters in connection with same.	0.50	650.00	325.00
01/11/2016	Adam Sherman Emails with J. Ashbourne. Emails from/to creditors. Emails/discussions with Richter team and M. Forte. Calls/emails with E. Oliver. Emails with M. Borowicz-Sibenik re waste supply agreement. Emails/calls with potential interested parties.	3.50	650.00	2,275.00
01/11/2016	Pritesh Patel Edits to teaser.	1.00	550.00	550.00
01/11/2016	Dale Millstein Responded to Elementa creditor calls/emails.	0.80	350.00	280.00
01/12/2016	Ann Stremski Communications with D. Millstein and C. O'Donnell; update creditor list.	0.60	185.00	111.00
01/12/2016	Soazig Bourgine Changes in Ascend to creditors list, email to D. Millstein.	0.50	185.00	92.50
01/12/2016	Paul Van Eyk Discussion with Richter team re updates, next steps, etc.	1.00	650.00	650.00
01/12/2016	Adam Sherman Review data room updates/activity. Emails with M. Forte re interested parties. Emails/discussions with Richter team re various matters. Emails with J. Ashbourne. Emails from/to T. Hughes. Draft Receiver's report.	3.00	650.00	1,950.00
01/12/2016	Pritesh Patel Calls and correspondence with potential stalking horse bidders.	1.00	550.00	550.00
01/12/2016	Dale Millstein Updated buyer list. Addressed creditor calls/emails.	0.50	350.00	175.00
01/13/2016	Adam Sherman Email from M. Forte re his communications with counsel for a creditor. Calls/emails with J. Ashbourne. Call with M. Borowicz-Sibenik re waste supply contract. Calls with potential interested parties. Emails/discussions with Richter team.	3.00	650.00	1,950.00

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Date	Name and Description	Hours	Rate	Amount
01/13/2016	Pritesh Patel Call with assistant solicitor at City of Sault Ste Marie.	0.70	550.00	385.00
01/13/2016	Dale Millstein Addressed creditor emails/calls for the Elementa Receivership.	0.50	350.00	175.00
01/14/2016	Ann Stremski Administration of file.	0.10	185.00	18.50
01/14/2016	Soazig Bourgine Affidavit faxed to OSB.	0.20	185.00	37.00
01/14/2016	Adam Sherman Review data room updates/activity. Emails/discussions with Richter team. Emails/calls with M. Forte. Emails with C. Jackson, former employee, re his claim, etc. Call with R. Finkbeiner re offer.	1.50	650.00	975.00
01/14/2016	Pritesh Patel Call with prospective staking horse bidder.	0.50	550.00	275.00
01/15/2016	Paul Van Eyk Calls with potential interested parties re sales process, receivership, etc.	1.00	650.00	650.00
01/15/2016	Adam Sherman Emails/calls with R. Finkbeiner re offer. Emails with M. Forte. Email from G. Phoenix attaching lease documents re Sault Ste. Marie lands, including email in response to same. Discussions with Richter team. Review files and draft Receiver's report.	3.50	650.00	2,275.00
01/15/2016	Pritesh Patel Call with prospective purchaser re stalking horse bid. Drafting email to SSM city solicitor as follow-up to call.	0.50	550.00	275.00
01/15/2016	Dale Millstein Responded to creditor inquiries via email/phone.	0.50	350.00	175.00
01/18/2016	Soazig Bourgine Email to D. Millstein re. returned mail.	0.10	185.00	18.50
01/18/2016	Adam Sherman Calls with E. Oliver re various matters. Calls with R. Finkbeiner re stalking horse bid and other matters. Draft Receiver's report. Discussions with Richter team. Email with F. Sulley re revised term sheet.	4.00	650.00	2,600.00
01/18/2016	Pritesh Patel Review of background docs, edits to teaser document for sales process.	1.50	550.00	825.00



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Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
01/19/2016	Adam Sherman Email from J. Ashbourne re prospect update. Emails from/to M. Forte re various matters. Calls with R. Finkbeiner. Emails and calls with creditors. Emails and discussions with Richter team. Draft Receiver's report.	3.00	650.00	1,950.00
01/19/2016	Pritesh Patel Review of revised proposed term sheet from stalking horse bidder. Edits to teaser.	1.20	550.00	660.00
01/20/2016	Pascale Lareau Preparation purchase order for registration fee.	0.30	185.00	55.50
01/20/2016	Adam Sherman Emails and conference call with E. Forte, E. Oliver and G. Finlayson re various matters. Emails from/to F. Sulley re revised term sheet. Emails and discussions with Richter team. Draft Receiver's report.	6.00	650.00	3,900.00
01/20/2016	Pritesh Patel Call from creditor regarding status of receivership and claims process. Call with interested party regarding potential stalking horse bid. Email to UofT as follow-up to earlier call. Review revised term sheet and call with Bennett Jones on same.	2.00	550.00	1,100.00
01/20/2016	Dale Millstein Participated in call with Bennett Jones.	1.00	350.00	350.00
01/21/2016	Soazig Bourgine Email to P. Patel, Ascend update.	0.30	185.00	55.50
01/21/2016	Pritesh Patel Call with IESO re EFW contract. Finalize draft of teaser document.	1.00	550.00	550.00
01/22/2016	Paul Van Eyk Calls with potential interested parties re sales process, receivership, etc. Discussions with Richter team.	1.00	650.00	650.00
01/22/2016	Adam Sherman Calls with R. Finkbeiner re stalking horse offer. Email and call with S. Graff re his client's offer. Emails from S. Sopic and E. Oliver re draft APA. Discussions with Richter team. Email to A. Ferri. Draft Receiver's report. Emails with J. Ashbourne.	6.00	650.00	3,900.00
01/22/2016	Pritesh Patel Call with potential bidder. Drafting Bid Procedures document.	5.00	550.00	2,750.00
01/22/2016	Dale Millstein Updated the Elementa teaser.	0.50	350.00	175.00

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 Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
01/25/2016	Adam Sherman Email from P. Patel re IESO. Emails from S. Sopic and E. Oliver re BJ comments on draft APA. Email from P. Patel attaching draft bid procedures document. Emails from GSNH/BJ re patents.	1.50	650.00	975.00
01/25/2016	Pritesh Patel Finalize bidding procedures and send to A. Sherman for comments. Review comments on APA from Bennett Jones. Call with counsel to IESO.	2.60	550.00	1,430.00
01/26/2016	Soazig Bourgine Email to Dale Millstein re. returned mails.	0.10	185.00	18.50
01/26/2016	Adam Sherman Emails from GSNH/BJ re revised patent schedule. Emails with GSNH re IESO counsel letter and other matters. Emails/discussions with Richter team. Revise bidding procedures document, including email to GSNH re same. Call and emails with J. Zwierschke.	3.50	650.00	2,275.00
01/26/2016	Pritesh Patel Meeting with A. Sherman to review comments on Bid Procedures and APA docs.	0.50	550.00	275.00
01/27/2016	Adam Sherman Emails with potential interested parties re proposed sales process. Conference call with M. Forte. S. Sopic and P. Patel re various matters. Emails and discussions with Richter team. Email from S. Sopic attaching revised APA, including comments on same.	4.00	650.00	2,600.00
01/27/2016	Pritesh Patel Call with counsel re APA and Bid Procedures.	0.50	550.00	275.00
01/28/2016	Adam Sherman Email from M. Forte re draft APA and bidding procedures. Emails/calls with Richter team. Review, revise and update Receiver's report. Call with R. Finkbeiner re various matters in connection with the stalking horse bid/sales process.	2.00	650.00	1,300.00
01/28/2016	Pritesh Patel Call with UofT re status of proceedings.	0.30	550.00	165.00
01/28/2016	Pritesh Patel Call with UofT re status of proceedings. Call with TMX re go forward services.	0.30	550.00	165.00
01/29/2016	Adam Sherman	3.00	650.00	1,950.00

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Date	Name and Description	Hours	Rate	Amount
	Emails from/to R. Finkbeiner. Emails/calls with Richter team. Call with M. Forte re various matters. Emails from GSNH re Torkin Manes comments on draft APA, including M. Forte's comments re same. Email from S. Sopic attaching draft sales process order.			
01/29/2016	Pritesh Patel Review of comments from GSNH on APA.	0.30	550.00	165.00
02/01/2016	Adam Sherman Emails from F. Sulley and M. Forte re additional diligence matters. Emails from/to M. Forte re Bradam APA.	0.50	650.00	325.00
02/01/2016	Pritesh Patel Review and comments on proposed buyer list.	0.50	550.00	275.00
02/02/2016	Pritesh Patel Review of comments on sales process order with A. Sherman.	0.20	550.00	110.00
02/02/2016	Dale Millstein Compiled proposed buyer list information.	2.00	350.00	700.00
02/03/2016	Carol O'Donnell Communication with bank regarding new account setup. Email to A. Sherman and D. Millstein.	0.30	185.00	55.50
02/03/2016	Soazig Bourgine New creditor added in Ascend.	0.20	185.00	37.00
02/03/2016	Adam Sherman Several emails with J. Zwierschke re flow through tax filings and other matters. Emails with M. Forte. Discussions with Richter team. Conference call with M. Forte, S. Sopic, and P. Patel re various matters.	1.00	650.00	650.00
02/03/2016	Pritesh Patel Call with counsel re status of IP review. Circulate comments to counsel on draft APA. Review and sign-off on letter to BMO re account closure.	1.00	550.00	550.00
02/03/2016	Pritesh Patel Call with counsel re status of IP review. Circulate comments to counsel on draft APA. Review and sign-off on letter to BMO re account closure. Call with CRA re status of proceedings and outstanding filings.	0.40	550.00	220.00
02/03/2016	Dale Millstein	3.00	350.00	1,050.00

Invoice No.: 20400885  
Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
	Contacted BMO re Elementa accounts. Prepared letter and sent information for closure of account. Followed up re banking information for Receiver account. Review redirected mail received.			
02/04/2016	Adam Sherman Emails from/to D. Millstein re update on several matters. Email from S. Sopic to F. Sulley attaching revised APA.	0.50	650.00	325.00
02/05/2016	Adam Sherman Emails from F. Sulley and M. Forte re Bradam comments on revised APA. Emails with Richter team and M. Forte re bidding procedure.	0.40	650.00	260.00
02/08/2016	Adam Sherman Emails with M. Forte re stalking horse bid. Call with R. Finkbeiner re stalking horse bid, sales process, etc. Emails with GSNH/Bennett Jones re Bradam's agreement to terms of APA. Emails with Richter team. Calls with creditors re various matters.	2.00	650.00	1,300.00
02/08/2016	Pritesh Patel Call with CRA re outstanding HST filings. Inquiries to CRA re T101 filings and associated account numbers.	0.75	550.00	412.50
02/09/2016	Adam Sherman Email from M. Forte re revised APA, including comments on same. Emails/calls with J. Zwierschke re various matters. Call with M. Forte re various matters. Emails/discussions with Richter team. Email from E. Oliver re Bradam APA. Update Receiver's report.	3.00	650.00	1,950.00
02/09/2016	Pritesh Patel Drafting response letter to IESO. Call with Z.Zwierschke. Calls with MOECC in connection with letters received. Call with counsel re comments on APA, draft order and bidding procedures. Call with BMO in connection with Elementa accounts.	2.20	550.00	1,210.00
02/10/2016	Adam Sherman Emails with interested party re sales process update. Emails with GSNH. Emails/discussions with Richter team. Email from S. Sopic attaching updated/revised stalking horse APA, draft order and bidding procedures.	2.00	650.00	1,300.00
02/10/2016	Pritesh Patel	1.20	550.00	660.00

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Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
02/11/2016	Call with MOECC re Elementa applications. Review and comments on revised APA. Paul Van Eyk Discussion with Richter team, including review of stalking horse APA, draft order and bidding procedures.	1.50	650.00	975.00
02/11/2016	Adam Sherman Email to GSNH providing final comments on stalking horse APA, draft order and bidding procedures. Sign stalking horse APA, including email to GSNH re same. Emails with S. Graff re status of sales process. Review and update Receiver's report.	3.50	650.00	2,275.00
02/11/2016	Pritesh Patel Call with CRA re T101 filings. Discussion with D. Millstein re Elementa RBC account.	1.00	550.00	550.00
02/11/2016	Dale Millstein Called former Elementa employees re: outstanding bank accounts. Called RBC re: potential bank accounts not closed. Drafted letter to close bank account, transfer funds and send previous 12 months bank statements.	1.00	350.00	350.00
02/12/2016	Paul Van Eyk Review and provide comments on draft Receiver's report. Discussions with Richter team re update and other matters.	2.00	650.00	1,300.00
02/12/2016	Adam Sherman Email from F. Sulley attaching signed stalking horse APA. Emails/discussions with Richter team. Email from P. Patel re comments on draft Receiver's report. Review/update Receiver's report, including email to GSNH re same. Calls with creditors re update.	2.50	650.00	1,625.00
02/12/2016	Pritesh Patel Review and edits to Receiver's First Report. Email and discussion with A. Sherman on same.	2.20	550.00	1,210.00
02/13/2016	Adam Sherman Email from M. Forte providing comments on draft Receiver's report. Review/revise draft Receiver's report. Email to Tokin Manes/Bennett Jones re draft Receiver's report.	1.50	650.00	975.00
02/16/2016	Soazig Bourguine Website posting of Motion and First Report.	0.50	185.00	92.50
02/16/2016	Paul Van Eyk Review of revised Receiver's report.	0.50	650.00	325.00

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Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
02/16/2016	Adam Sherman Emails from GSNH, Bennett Jones and Torkin Manes re Receiver's report. Emails/discussions with Richter team. Finalize and sign Receiver's report. Email from GSNH re service of Receiver's motion record.	3.50	650.00	2,275.00
02/16/2016	Pritesh Patel Review and comments on Receiver's report. Call with E.Oliver re Receiver's report. Sign Receiver's report. Finalize draft of teaser for A. Sherman review.	2.20	550.00	1,210.00
02/16/2016	Dale Millstein Call with J. Ashbourne. Drafted letter to RBC to close account. Call with RBC re: closing the Elementa account. Drafted email to close account.	1.30	350.00	455.00
02/17/2016	Carol O'Donnell Email banking information to P. Patel. Enter bank account into ascend and open banking file.	0.30	185.00	55.50
02/17/2016	Soazig Bourgine Reading of Motion and Report, fax to OSB.	0.70	185.00	129.50
02/17/2016	Soazig Bourgine Follow up email to D. Millstein re. returned mails.	0.10	185.00	18.50
02/17/2016	Adam Sherman Emails/discussions with Richter team re various matters. Emails with GSNH re confirmation of receipt of Bradam deposit. Emails with GSNH re draft letter to IESO, including comments on same. Email from GSNH re factum/books of authorities re Feb. 19 motion.	1.00	650.00	650.00
02/17/2016	Pritesh Patel Call with prospective purchaser re sales process and timing. Edits to draft teaser email.	0.80	550.00	440.00
02/17/2016	Dale Millstein Crafted emails to arrange Andy Ferri visit with landlord. Reviewed and made edits to Elementa teaser.	1.50	350.00	525.00
02/18/2016	Adam Sherman Emails with M. Forte re A. Ferri. Discussions with Richter team. Emails with GSNH re APA for data room.	0.50	650.00	325.00
02/18/2016	Pritesh Patel	1.20	550.00	660.00

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Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
	Edits and finalize teaser and teaser email. Review of clean APA for dataroom.			
02/18/2016	Dale Millstein Calls with former Elementa employees re: teaser. Update data room. Draft email for sales process.	1.60	350.00	560.00
02/19/2016	Soazig Bourgine Website posting of Order.	0.30	185.00	55.50
02/19/2016	Adam Sherman Attendance in Court re approval of sale process, including discusions with various counsel. Email with GSNH re order/endorsement, etc. Discussions with Richter team. Review/approve sales process docs. Emails/calls with creditors/interested parties.	3.00	650.00	1,950.00
02/19/2016	Pritesh Patel Prep and attendance in Court. Coordinate information for posting to dataroom. Drafting letter response to J. Dalton re 2015 Tax Shelter ID.	3.00	550.00	1,650.00
02/19/2016	Dale Millstein Call with J. Ashbourne re: mail collection for next week. Updat data room. Sent out sales process emails with teaser and NOA.	2.80	350.00	980.00
02/20/2016	Adam Sherman Emails/calls with Richter team re D. Turcotte. Emails with GSNH draft response to D. Turcotte.	0.50	650.00	325.00
02/22/2016	Adam Sherman Emails with A. Ferri re access to former Elementa premises. Emails/discussions with Richter team re various matters, including interest in Elementa assets. Emails/discussions with potential interested parties re sales process, stalking horse bid, etc.	1.50	650.00	975.00
02/22/2016	Pritesh Patel Review form of APA for dataroom. Review updated draft of letter re flow-through shares. Responding to email from prospective purchaser re sales process.	0.60	550.00	330.00
02/22/2016	Dale Millstein Updated bid tracking schedule.	0.40	350.00	140.00
02/23/2016	Adam Sherman	2.50	650.00	1,625.00

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Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
	Email to J. Zwierschke/J. Dalton. Call with J. Zwierschke re sales process, etc. Several emails/calls with interested parties re proposed revisions to NDA, sales process, etc. Emails/discussions with Richter team. Emails with M. Forte.			
02/23/2016	Dale Millstein Supervised the collection of mail and documents at the former Elementa office space. Drafted emails to interested parties re sales process. Addressed emails re: NDA changes with interested party.	3.60	350.00	1,260.00
02/23/2016	Dale Millstein Travel to and from the former Elementa head office.	3.20	350.00	1,120.00
02/24/2016	Adam Sherman Discussions with Richter team. Emails from/to and call with M. Forte re various matters. Email/call with J. Zwierschke.	1.00	650.00	650.00
02/25/2016	Paul Van Eyk Discussions with potential interested parties re sales process, receivership, etc.	1.00	650.00	650.00
02/25/2016	Adam Sherman Emails/calls with potential interested parties re opportunity, sales process, etc. Emails from M. Forte re various matters in connection with the claim advanced by A. Wise.	1.00	650.00	650.00
02/29/2016	Adam Sherman Emails with M. Forte re IESO. Draft landlord email, including emails with M. Forte re same. Emails with J. Zwierschke.	0.70	650.00	455.00
03/01/2016	Adam Sherman Email to J. Trivieri (landlord) re Elementa's leased premises.	0.20	650.00	130.00
03/04/2016	Adam Sherman Call with J. Zwierschke re various matters. Discussions with Richter team.	0.50	650.00	325.00
03/04/2016	Dale Millstein Contacted COGECO re receivership and cancellation of services from date of receivership.	0.90	350.00	315.00
03/07/2016	Adam Sherman Emails from M. Forte. Email from E. Oliver re Kyudoka.	0.20	650.00	130.00
03/07/2016	Dale Millstein Updated proposed buyer listing for activity. Follow up with non-respondents.	2.70	350.00	945.00



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Date	Name and Description	Hours	Rate	Amount
03/08/2016	Adam Sherman Several emails with L. Pignataro re 2015 T4s. Emails with M. Forte. Email to E. Oliver re Kyudoka. Emails/discussions with Richter team. Email from J. Zwierschke re IESO. Call with J. Zwierschke. Email from landlord and its counsel re leased premises.	2.00	650.00	1,300.00
03/08/2016	Pritesh Patel Review of IESO response. Investigation into 2015 T4 issue raised by former employees. Follow-up with interested parties re sales process. Call with interested party re NDA.	0.80	550.00	440.00
03/08/2016	Pritesh Patel Call with interested party re NDA.	0.30	550.00	165.00
03/08/2016	Dale Millstein Participated in call with interested party and drafted follow up email re NDA. Updated proposed buyer tracking list. Followed up with G. Ronson re: 2015 T4's, 2015 source deductions, 2014 T4's and 2014 source deductions.	3.10	350.00	1,085.00
03/09/2016	Adam Sherman Email from E. Oliver. Email from A. Ferri re Agreement with Elementa. Emails/discussions with Richter team. Emails with M. Forte re various matters. Calls with various parties re A. Ferri. Emails from/to H. Ismail of Kyudoka.	2.50	650.00	1,625.00
03/09/2016	Dale Millstein Made arrangements with J. Trivieri (Landlord) to move boxes for next week. Emailed RBC re: available bank statements. Spoke to G. Ronson re: payroll documents required for the receivership.	3.10	350.00	1,085.00
03/10/2016	Adam Sherman Emails and conference call with GSNH and BJ re Ferri matter. Discussions with Richter team.	0.80	650.00	520.00
03/10/2016	Pritesh Patel Call with counsels re A.Ferri matter.	0.50	550.00	275.00
03/10/2016	Dale Millstein Sent creditor listing to G. Rawson.	0.30	350.00	105.00
03/11/2016	Carol O'Donnell Make necessary arrangements to have boxes sent to storage.	0.30	185.00	55.50
03/11/2016	Adam Sherman	2.50	650.00	1,625.00

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Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
	Emails and meeting with H. Ismail of Kyudoka and M. Forte re sales process and other matters. Meeting with M. Forte re Ferri matter, etc. Emails and discussions with Richter team. Email from M. Forte re draft briefing note.			
03/11/2016	Pritesh Patel Calls with C. O'Donnell re coordinating storage of books and records. Call with interested party re due diligence questions.	0.80	550.00	440.00
03/11/2016	Dale Millstein Followed up re: box delivery and pick up with J. Trivieri and J. Ashbourne. Call with storage company.	1.20	350.00	420.00
03/14/2016	Carol O'Donnell Make arrangements for having boxes stored and purchase boxes. Call with D. Millstein.	0.30	185.00	55.50
03/14/2016	Dale Millstein Call with G. Rawson re moving documents/files from former Elementa office. Confirmed logistics re: deliver/storage/collection of document boxes with File Bank. Confirmed moving logistics with the landlord.	1.30	350.00	455.00
03/15/2016	Adam Sherman Emails from M. Forte. Email from J. Zwierschke re letter received from IESO, including discussion with J. Zwierschke re various matters. Discussions with Richter team.	0.80	650.00	520.00
03/15/2016	Dale Millstein Travel time to/from former Elementa Group Inc. head office.	2.60	350.00	910.00
03/15/2016	Dale Millstein Attendance at former Elementa offices to pack up books and records. Coordinated box drop off with File Bank. Reviewed T4 information with G. Rawson.	4.60	350.00	1,610.00
03/15/2016	Dale Millstein Attendance at Elementa offices to sort and pack the books and records for storage.	7.50	350.00	2,625.00
03/16/2016	Adam Sherman Emails from M. Forte re sales process, etc. Email from GSNH attaching Receiver's Briefing Note re motion returnable March 18, 2016. Call with J. Zwierschke. Discussions with Richter team. Email from G. Temelini re Mr. Ferri.	1.00	650.00	650.00
03/16/2016	Dale Millstein	2.60	350.00	910.00

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Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
	Travel time to/from former Elementa Group Inc. head office.			
03/16/2016	Dale Millstein Attendance at former Elementa offices to pack up books and records.	5.50	350.00	1,925.00
03/16/2016	Dale Millstein Attendance at Elementa offices to sort and pack the books and records for storage.	7.50	350.00	2,625.00
03/17/2016	Adam Sherman Emails from M. Forte re PPSA search results re Northguard/Ferri, etc. Emails/discusions with Richter team. Email from M. Forte re draft Receiver's report re Northguard/Ferri, including preliminary comments on same. Emails/call with J. Zsierschke.	1.50	650.00	975.00
03/17/2016	Pritesh Patel Calls and emails to interested parties re sales process. Upload form of APS to dataroom and email to certain interested parties. Discussion with A.Sherman on status of file.	1.10	550.00	605.00
03/17/2016	Dale Millstein Travel time to/from former Elementa Group Inc. head office.	2.60	350.00	910.00
03/17/2016	Dale Millstein Attendance at former Elementa offices. Coordinated box/document collection with File Bank.	5.00	350.00	1,750.00
03/17/2016	Dale Millstein Attendance at Elementa offices to sort and pack the books and records for storage.	7.50	350.00	2,625.00
03/18/2016	Adam Sherman Preparation for and attendance in Court re motion for advice/directions re Ferri. Call with J. Zwierschke. Call with R. Finkbeiner. Discussions/emails with Richter team. Emails from GSHNH re various matters.	3.50	650.00	2,275.00
03/18/2016	Pritesh Patel Prep and attendance in court for scheduling hearing. Calls and emails with interested parties re sales process.	1.00	550.00	550.00
03/18/2016	Dale Millstein Contacted Franco-Typ re: postage machine and return protocol. Emailed A. Ferri to notify him that Elementa vacated former offices. Created T4's for payroll run in January 2015. Returned modem to Cogeco.	2.60	350.00	910.00
03/19/2016	Pritesh Patel	3.00	550.00	1,650.00

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Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
03/20/2016	Review and edits to Second Report. Review of appendices. Adam Sherman Email from P. Patel re comments on Receiver's second report. Review, revise and update Receiver's second report. Review and update appendices. Email to M. Forte re revised Receiver's second report.	7.00	650.00	4,550.00
03/21/2016	Paul Van Eyk Review and provide comments on Receiver's report. Discussions with Richter team re various matters.	2.00	650.00	1,300.00
03/21/2016	Adam Sherman Several emails/calls with M. Forte re Receiver's second report, etc. Emails/discussions with Richter team. Finalize and sign Receiver's second report. Call with R. Finkbeiner. Email from GSNH re service of Receiver's second report. Call with J.Zwierschke.	3.50	650.00	2,275.00
03/21/2016	Pritesh Patel Call with M. Forte to review comments on second report. Compile appendices. Finalize and sign Second Report.	1.50	550.00	825.00
03/21/2016	Dale Millstein Emailed G. Rawson re: HST and SR&ED filings.	0.50	350.00	175.00
03/22/2016	Soazig Bourgine Second Report of Receiver posted on website.	0.20	185.00	37.00
03/22/2016	Pritesh Patel Review of 2015 T4s for former employees. Email to employees on same.	0.50	550.00	275.00
03/24/2016	Ann Stremski Communications with D. Millstein re T4's.	0.10	185.00	18.50
03/24/2016	Dale Millstein Submitted T4's for 2015 payroll run.	0.30	350.00	105.00
03/25/2016	Adam Sherman Email from G. Temelini attaching unsworn affidavit of A. Ferri.	0.80	650.00	520.00
03/28/2016	Ann Stremski Prepare T4 Summary for company; mail slips; communication with D. Millstein on same.	0.80	185.00	148.00
03/28/2016	Adam Sherman	0.50	650.00	325.00

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Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
	Email from G. Temelini re sworn Ferri Affidavit. Emails with G. Phoenix. Email from G. Temelini re Ferri Reply Affidavit.			
03/28/2016	Pritesh Patel Review of responding materials from A. Ferri and discussion with A. Sherman on same.	0.50	550.00	275.00
03/28/2016	Dale Millstein Filed T4's for single 2015 payroll run.	0.50	350.00	175.00
03/29/2016	Soazig Bourgine Second report of Receiver faxed to OSB.	0.20	185.00	37.00
03/30/2016	Ann Stremski Communications with D. Millstein; file HST declarations for 2 periods; administration of file.	0.40	185.00	74.00
03/30/2016	Dale Millstein Completed HST filings for pre-filing period.	0.40	350.00	140.00
04/01/2016	Pritesh Patel Call with counsel re upcoming hearing and next steps.	0.30	550.00	165.00
04/01/2016	Dale Millstein Review Elementa financial records for preparation of 2015 corporate tax return.	1.20	350.00	420.00
04/04/2016	Adam Sherman Email from GSNH attaching factum/book of authorities. Emails with Richter team. Call with J. Zwierschke.	0.50	650.00	325.00
04/05/2016	Adam Sherman Attendance in Court re motion for advice/directions, including discussions with counsel. Discussion with J. and L. Zwierschke. Emails/discussions with Richter team. Emails with S. Sopic re email contact for D'Amico.	2.00	650.00	1,300.00
04/06/2016	Carol O'Donnell Prepare deposit.	0.10	185.00	18.50
04/06/2016	Adam Sherman Emails/discussions with Richter team. Emails from/to R. Finkbeiner. Emails from GSNH re various matters, including vesting order motion. Correspondence from MOECC re application fee refund.	0.80	650.00	520.00
04/06/2016	Pritesh Patel Drafting Receiver's Third Report. Call with M.Forte on same and timing for service.	6.50	550.00	3,575.00
04/07/2016	Soazig Bourgine Order posted to Website and faxed to OSB.	0.30	185.00	55.50

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Date: 05/25/2016



Date	Name and Description	Hours	Rate	Amount
04/07/2016	Paul Van Eyk Review and provide comments on Receiver's report.	0.50	650.00	325.00
04/07/2016	Adam Sherman Emails with GSNH re D'amico. Emails with R. Finkbeiner. Email from J. Zwierschke. Emails/discussions with Richter team. Review and revise Receiver's third report. Emails iwth M. Forte re Receiver's third report, including further revisions to same.	4.50	650.00	2,925.00
04/07/2016	Pritesh Patel Finalize draft of Third Report for review. Review and comments on updated draft circulated to counsel.	1.80	550.00	990.00
04/08/2016	Adam Sherman Several emails/calls with M. Forte re Receiver's third report, termination of IESO contract, etc. Email to GSNH re Receiver's authorization to change corp. name. Finalize/sign Receiver's 3rd report. Call with R. Finkbeiner. Emails with Richer team.	3.00	650.00	1,950.00
04/11/2016	Soazig Bourgine Website posting and fax to OSB of Motion and Report.	0.70	185.00	129.50
04/12/2016	Adam Sherman Email from M. Forte re closing schedule. Call with J. Zwierschke. Emails/discussions with Richter team.	0.50	650.00	325.00
04/13/2016	Adam Sherman Email from GSNH to counsel for a creditor of Elementa Algoma LP re termination of IESO contract/vesting order. Email from GSNH re factum and book of authorities. Discussions with Richter team.	0.50	650.00	325.00
04/13/2016	Dale Millstein Drafted and sent release and indemnity agreement to Cogeco and Francotyp.	0.45	350.00	157.50
04/14/2016	Adam Sherman Email/call with H. Hiscox, a shareholder. Emails with GSNH re various matters. Email from G. Phoenix re termination of LOC associated with IESO contract. Email from GSNH attaching draft closing docs. Email from counsel for Bradam re closing docs.	1.50	650.00	975.00
04/15/2016	Ann Stremski Verify online banking; communication with BMO; prepare entries	0.50	185.00	92.50
04/15/2016	Adam Sherman	2.00	650.00	1,300.00

Invoice No.: 20400885  
Date: 05/25/2016



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<b>Date</b>	<b>Name and Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
	Attendance at Court re sale approval/vesting order, including discussions with various counsel. Email from GSNH attaching order/endorsement. Emails/discussions with Richter team re various matters. Emails from GSNH re distribution motion, etc.			
04/15/2016	Pritesh Patel Drafting email re HST position. Drafting Fourth Report.	3.50	550.00	1,925.00

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<b>Fees Total</b>		<b>371.10</b>		<b>\$ 189,051.50</b>
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<b>Date</b>	<b>Name and Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
11/30/2015 - 3/31/2016	Disbursements and other out-of-pocket expenses, including kilometres, postage, photocopying, courier, storage, etc.			\$ 4,623.12

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<b>Disbursements Total</b>				<b>\$ 4,623.12</b>
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Invoice No.: 20400885  
Date: 05/25/2016



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**Remittance Form**

Richter Advisory Group Inc.  
Receiver re: Elementa Group Inc.  
181 Bay Street, 33rd Floor  
Toronto, Ontario M5J 2T3

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**Invoice Summary**

<b>Sub-Total</b>		<b>\$ 193,674.62</b>
GST/HST #885435842 RT0001		25,177.70
<b>Total Due</b>	<b>CAD</b>	<b>\$ 218,852.32</b>

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**Payment Options**

**Wire Transfer**

Toronto Dominion Bank  
Commercial Banking Center  
525 Av. Viger Ouest, Montréal (Qc) H2Z 0B2  
CAD Account no.: 5300836 Transit no.: 41601 Swift code: TDOMCATT  
USD Account no.: 7332090 Transit no.: 41601 Swift code: TDOMCATTTOR  
Email payment details, including invoice number and amount paid to:  
ClientService@richter.ca

**Cheques**

Payable to: Richter Advisory Group Inc.  
Send to: 181 Bay Street, Suite 3320, Bay Wellington Tower, Toronto ON M5J 2T3

**Inquiries: please call our general line 416.488.2345 or e-mail ClientService@richter.ca**

T. 416.488.2345

Richter Advisory Group Inc.  
181 Bay St., Suite 3320  
Bay Wellington Tower  
Toronto, ON M5J 2T3  
www.richter.ca

Toronto, Montreal





# RICHTER

Richter Advisory Group Inc.  
Receiver re: Elementa Group Inc.  
181 Bay Street, 33rd Floor  
Toronto, Ontario M5J 2T3

Date: 05/30/2016  
Invoice No.: 20400904  
Engagement No.: 2020396  
Payment Terms: Due on Receipt

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Professional services rendered to May 27, 2016	\$ 33,696.00
Disbursements	57.00
<b>Sub-Total</b>	<hr/> 33,753.00
GST/HST #885435842 RT0001	4,387.89
<b>Total Due</b>	<hr/> <b>CAD \$ 38,140.89</b>

T. 416.488.2345

Richter Advisory Group Inc.  
181 Bay St., Suite 3320  
Bay Wellington Tower  
Toronto, ON M5J 2T3  
[www.richter.ca](http://www.richter.ca)

Toronto, Montreal



Invoice No.: 20400904  
Date: 05/30/2016



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**Fees**

<b>Name</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
Adam Sherman	33.20	\$ 650.00	\$ 21,580.00
Ann Stremski	1.60	185.00	296.00
Carol O'Donnell	0.50	185.00	92.50
Dale Millstein	4.90	350.00	1,715.00
Pascale Lareau	0.20	185.00	37.00
Paul Van Eyk	0.45	650.00	292.50
Pritesh Patel	17.00	550.00	9,350.00
Soazig Bourguine	1.80	185.00	333.00
	<b>59.65</b>		<b>\$ 33,696.00</b>

**Disbursements**

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Disbursements			\$ 57.00
			<b>\$ 57.00</b>

Invoice No.: 20400904  
Date: 05/30/2016



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**Fee and Disbursement Details**

<b>Date</b>	<b>Name and Description</b>	<b>Hours</b>	<b>Rate</b>	<b>Amount</b>
04/18/2016	Adam Sherman Email from M. Forte re communications with BJ re bankruptcy application. Email from M. Forte attaching various closing docs. Emails with Richter team. Emails between GSNH and TM re various closing matters. Email from G. Phoenix.	0.80	\$ 650.00	\$ 520.00
04/18/2016	Pritesh Patel Continue drafting 4th report. Review of closing agenda and related documents.	7.50	550.00	4,125.00
04/18/2016	Dale Millstein Prepared contact information for Elementa asset listing.	0.50	350.00	175.00
04/19/2016	Ann Stremski Communication with P. Patel; administration of file; prepare fax to CRA.	0.50	185.00	92.50
04/19/2016	Adam Sherman Call with H. Hiscox, a shareholder, re update. Several emails from/to GSNH. Discussions with Richter team. Review and sign Articles of Amendment re re name change. Preliminary review of Receiver's 4th report.	2.00	650.00	1,300.00
04/19/2016	Pritesh Patel Draft 4th report for review. Calls from CRA re 2015 T4 filings. Call with A. Stremski re GL reconciliation.	3.50	550.00	1,925.00
04/19/2016	Dale Millstein Finalized asset listing by location for closing meeting.	0.80	350.00	280.00
04/20/2016	Adam Sherman Emails/calls with M. Forte re various closing matters. Email from GSNH attaching draft security opinion. Emails/discussions with Richter team. Revise and update Receiver's 4th report. Emails with M. Forte re closing delay. Call with R. Finkbeiner.	5.00	650.00	3,250.00
04/21/2016	Soazig Bourguine Email to P. Patel re redirection of mail.	0.10	185.00	18.50
04/21/2016	Adam Sherman Emails with R. Finkbeiner re stored assets. Emails/discussions with Richter team. Review, revise and update Receiver's 4th report. Calls with J. Zwierschke. Email from the City of SSM.	2.00	650.00	1,300.00
04/21/2016	Pritesh Patel	0.50	550.00	275.00

Invoice No.: 20400904  
Date: 05/30/2016



Date	Name and Description	Hours	Rate	Amount
	Drafting response to M. Borowicz-Sibenik re status of receivership proceedings. Discussion with A. Sherman on same. Investigation into Elementa off-site storage issue.			
04/21/2016	Dale Millstein Contacted "Store-It-Yourself" re: storage of equipment. Obtained explanation for amount owing.	0.70	350.00	245.00
04/22/2016	Ann Stremski Communications with M. Sim Chu and D. Millstein; prepare cheque; administration of file.	0.50	185.00	92.50
04/22/2016	Adam Sherman Call with the City of SSM re update on receivership, including sale to Bradam. Emails/discussions with Richter team.	0.80	650.00	520.00
04/22/2016	Pritesh Patel Call with Sault Ste. Marie regarding status of receivership proceedings and sales process.	0.50	550.00	275.00
04/22/2016	Dale Millstein Prepared cheque requisition for "Store-It-Yourself". Facilitated payment for storage up until and including April 30, 2016.	0.70	350.00	245.00
04/25/2016	Paul Van Eyk Discussion with team on outstanding issues and closing.	0.25	650.00	162.50
04/25/2016	Adam Sherman Emails from GSNH and TM re update on status of closing. Call with and email from J. Zwierschke.	0.50	650.00	325.00
04/26/2016	Adam Sherman Call with R. Finkbeiner re various closing matters. Emails from GSNH and TM re various closing matters. Several emails with GSNH. Correspondence from Blakes re invoices for services provided to Board.	0.50	650.00	325.00
04/27/2016	Adam Sherman Emails from R. Finkbeiner/F. Sulley re closing matters. Emails/calls with M. Forte re closing matters. Email from GSNH attaching security opinion. Emails/discussions with Richter team. Emails with GSNH/BJ re closing extension and acceptance of note.	1.50	650.00	975.00
04/28/2016	Paul Van Eyk Closing issues.	0.20	650.00	130.00
04/28/2016	Adam Sherman	1.00	650.00	650.00

Invoice No.: 20400904  
Date: 05/30/2016



Date	Name and Description	Hours	Rate	Amount
	Conference call with GSNH/BJ re Bradam sale. Emails from/to R. Finkbeiner. Email from M. Forte re Bradam agreement to BJ security. Call with M. Forte.			
04/29/2016	Adam Sherman Several emails/calls with M. Forte and BJ re Bradam, closing matters, etc. Emails with Richter team. Call with R. Finkbeiner.	0.60	650.00	390.00
05/02/2016	Carol O'Donnell Discussion with A. Sherman regarding wire transfer. Verify bank for transfer. Prepare deposit. Email A. Sherman a copy of wire transfer. Enquiries with BMO regarding incoming wire transfer from Torkin Manes. Prepare deposit in Ascend.	0.50	185.00	92.50
05/02/2016	Ann Stremski Verify online banking.	0.20	185.00	37.00
05/02/2016	Adam Sherman Receipt of draft re Bradam from BM Calls/emails with M. Forte. Call with J. Zwierschke. Emails with TM re drafts/wire for Bradam. Emails with GSNH/BJ to confirm receipt of Bradam funds. Emails with Richter team. Email from M. Forte re Receiver's report.	1.70	650.00	1,105.00
05/03/2016	Adam Sherman Email from M. Forte re Bradam affidavit re amendment to purchase terms. Review, revise and update Receiver's report re revised terms of Bradam sale.	1.50	650.00	975.00
05/04/2016	Adam Sherman Review, revise and update Receiver's report, including emails with M. Forte re same. Email from GSNH attaching draft affidavit of F. Sulley re Bradam sale.	1.20	650.00	780.00
05/05/2016	Ann Stremski File HST declaration.	0.20	185.00	37.00
05/05/2016	Adam Sherman Emails/calls with S. Sopic re comments on F. Sulley affidavit. Emails/calls with Richter team. Sign Receiver's 4th report. Email from GSNH to TM re draft promissory note, including emails from F. Sulley re same.	0.50	650.00	325.00
05/05/2016	Pritesh Patel Review and sign Receiver's 4th Report.	0.50	550.00	275.00
05/06/2016	Adam Sherman Email from M. Forte re communications with the Court. Emails with Richter team.	0.10	650.00	65.00

Invoice No.: 20400904  
Date: 05/30/2016



Date	Name and Description	Hours	Rate	Amount
05/09/2016	Adam Sherman Emails with M. Forte re Court scheduling matters. Call with J. Zwierschke re update on status of Bradam closing.	0.40	650.00	260.00
05/10/2016	Adam Sherman Email/calls with R. Finkbeiner re various closing matters. Email from GSNH re scheduling of Court hearing re Bradam sale for May 13, 2016. Email from GSNH re service of motion record.	0.50	650.00	325.00
05/10/2016	Pritesh Patel Call with Zeton re status of closing and storage of pilot plant assets.	0.40	550.00	220.00
05/11/2016	Soazig Bourgine Website posting Motion, Report and Affidavit.	0.50	185.00	92.50
05/11/2016	Soazig Bourgine Motion Report & Affidavit faxed to OSB.	0.30	185.00	55.50
05/12/2016	Pascale Lareau Bank reconciliation.	0.20	185.00	37.00
05/12/2016	Adam Sherman Call with S. Sopic re various matters. Email from GSNH attaching revised promissory note.	0.30	650.00	195.00
05/13/2016	Soazig Bourgine Website posting of order and faxed to OSB.	0.40	185.00	74.00
05/13/2016	Adam Sherman Attendance in Court re Bradam transaction, including discussions with counsel in attendance. Discussions with Richter team. Call with R. Finkbeiner re various matters. Call with J. Zwierschke. Meeting with S. Sopic re execution of IP assignments.	2.00	650.00	1,300.00
05/13/2016	Pritesh Patel Correspondence with counsel to City of Sault Ste Marie regarding status of closing, receivership, etc. Discussion with A. Sherman on same.	0.40	550.00	220.00
05/16/2016	Adam Sherman Emails with M. Forte re closing. Emails with R. Finkbeiner re various closing matters. Emails/discussions with Richter team. Email from GSNH attaching entered Receiver's certificate re closing.	1.20	650.00	780.00
05/17/2016	Adam Sherman Calls/emails with R. Finkbeiner re various post-closing matters. Emails from/to G. Finlayson of BJ. Email from M. Forte re Receiver's discharge motion.	0.60	650.00	390.00

Invoice No.: 20400904  
Date: 05/30/2016



Date	Name and Description	Hours	Rate	Amount
05/17/2016	Pritesh Patel Email to A. Sherman re contacts for Elementa contracts and locations of assets.	0.30	550.00	165.00
05/18/2016	Adam Sherman Emails with R. Finkbeiner. Email to G. Finlayson. Emails/discussions with Richter team. Review, revise and update Receiver's 5th report.	1.50	650.00	975.00
05/18/2016	Pritesh Patel Email to City of Sault Ste Marie re status of sales process. Email to GSNH re HST.	0.70	550.00	385.00
05/19/2016	Adam Sherman Email from BJ re draft motion materials for bankruptcy, including comments on same. Emails/discussions with Richter team. Email from GSNH re Articles of Amendment for corporate name change.	1.00	650.00	650.00
05/19/2016	Pritesh Patel Review draft application materials from Bennett Jones and discussion with M.Forte on same.	0.50	550.00	275.00
05/20/2016	Adam Sherman Review/approve February - March bank recs. Call with J. Zwierschke re update/next steps. Discussions/emails with Richter team.	0.50	650.00	325.00
05/20/2016	Dale Millstein Responded to inquiries from D. Turcotte.	0.80	350.00	280.00
05/24/2016	Ann Stremski Verify online banking; forward GL and bank statement to D. Millstein.	0.20	185.00	37.00
05/24/2016	Adam Sherman Emails with GSNH re various matters. Email from S. Sopic providing BJ's bankruptcy motion materials. Emails/discussions with Richter team. Review and revise Receiver's 5th report, including email to GSNH re same.	3.50	650.00	2,275.00
05/24/2016	Pritesh Patel Review and edits to Receiver's 5th Report. Compile R&D for report.	1.00	550.00	550.00
05/24/2016	Dale Millstein Responded to D. Turcotte re: Elementa debt and equity.	0.40	350.00	140.00
05/25/2016	Soazig Bourguine Website posting of Motion.	0.20	185.00	37.00
05/25/2016	Adam Sherman	1.00	650.00	650.00



Invoice No.: 20400904  
Date: 05/30/2016



Date	Name and Description	Hours	Rate	Amount
	Email from GSNH re Receiver's 5th report. Email from M. Forte re invoice. Draft Richter fee affidavit.			
05/26/2016	Soazig Bourguine Motion Record of Bennett Jones faxed to OSB.	0.30	185.00	55.50
05/26/2016	Adam Sherman Email from GSNH re comments on Receiver's 5th report. Emails/discussions with Richter team re revisions to Receiver's 5th report, etc. Email from GSNH attaching fee affidavit.	0.50	650.00	325.00
05/26/2016	Pritesh Patel Edits to Receiver's 5th Report and update R&D.	1.20	550.00	660.00
05/27/2016	Adam Sherman Emails/discussions with Richter team re outstanding matters, etc. Email from GSNH attaching notice of motion/order. Emails/call with R. Finkbeiner.	0.50	650.00	325.00
05/27/2016	Dale Millstein Facilitated document and record collection with Bradam.	1.00	350.00	350.00
<b>Fees Total</b>		<b>59.65</b>		<b>\$ 33,696.00</b>
Date	Name and Description	Hours	Rate	Amount
04/30/2016	Disbursements Storage			\$ 57.00
<b>Disbursements Total</b>				<b>\$ 57.00</b>

Invoice No.: 20400904  
Date: 05/30/2016



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**Remittance Form**

Richter Advisory Group Inc.  
Receiver re: Elementa Group Inc.  
181 Bay Street, 33rd Floor  
Toronto, Ontario M5J 2T3

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**Invoice Summary**

<b>Sub-Total</b>		<b>\$ 33,753.00</b>
GST/HST #885435842 RT0001		4,387.89
<b>Total Due</b>	<b>CAD</b>	<b>\$ 38,140.89</b>

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**Payment Options**

**Wire Transfer**

Toronto Dominion Bank  
Commercial Banking Center  
525 Av. Viger Ouest, Montréal (Qc) H2Z 0B2  
CAD Account no.: 5300836 Transit no.: 41601 Swift code: TDOMCATT  
USD Account no.: 7332090 Transit no.: 41601 Swift code: TDOMCATTOR  
Email payment details, including invoice number and amount paid to:  
ClientService@richter.ca

**Cheques**

Payable to: Richter Advisory Group Inc.  
Send to: 181 Bay Street, Suite 3320, Bay Wellington Tower, Toronto ON M5J 2T3

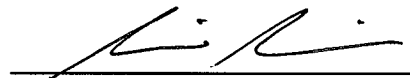
**Inquiries: please call our general line 416.488.2345 or e-mail ClientService@richter.ca**

T. 416.488.2345

Richter Advisory Group Inc.  
181 Bay St., Suite 3320  
Bay Wellington Tower  
Toronto, ON M5J 2T3  
www.richter.ca

Toronto, Montreal

This is Exhibit "C" referred to in the Affidavit of  
Adam Sherman, sworn before me this  
31<sup>st</sup> day of May, 2016



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Commissioner for Taking Affidavits, etc

**Richter Advisory Group Inc.  
in its capacity as Receiver of  
Elementa Group Inc.  
Statement of Accounts**

**Exhibit "C"**

<b>Staff Member</b>	<b>Number of Hours</b>	<b>Hourly Rate</b>	<b>Amount</b>
<b>Senior Vice President</b>			
P.van Eyk	11.95	650	7,767.50
A. Sherman	184.70	650	120,055.00
R. Vankrimpen	2.00	650	1,300.00
<b>Vice President</b>			
P.Patel	81.75	550	44,962.50
<b>Senior Associate</b>			
D. Millstein	126.35	350	44,222.50
<b>Administration</b>			
S.Bourgine	10.90	185	2,016.50
P.Lareau	1.30	185	240.50
C.O'Donnell	2.90	185	536.50
A.Stremski	8.90	185	1,646.50
<b>Total</b>	<b>430.75</b>		<b>222,747.50</b>

**Blended average hourly rate: 517.12**

TAB N

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

IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.

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**AFFIDAVIT OF Mario J. Forte**

**(Sworn May 26, 2016)**

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I, Mario J. Forte, of the City of Toronto, hereby MAKE OATH AND SAY:

1. I am a barrister and solicitor qualified to practice in the Province of Ontario and am counsel to the law firm of Goldman Sloan Nash & Haber LLP (“**GSNH**”) and therefore have knowledge of the matters in this affidavit. Where this affidavit is based on information and belief, I have stated the source of that information and believe it to be true.

2. GSNH are lawyers of record for Richter Advisory Group Inc. in its capacity as the Court appointed Receiver of Elementa Group Inc. (the “**Receiver**”).

3. Attached as **Exhibit “A”** to this affidavit is a copy of invoice to be rendered by GSNH to the Receiver for fees and disbursements incurred by GSNH in the course of this proceeding for the period from November 30, 2015 to May 24 , 2016 with detailed descriptions of each docketed entry and the total billable hours by lawyer with their respective hourly rate. No interim accounts were rendered in this matter owing to the unusual circumstances of the file in that there was no readily available cash to be collected nor assets to be immediately liquidated which could generate cash receipts during such interim period.

4. The average hourly rate charged for the invoice set out in Exhibit “A” is approximately \$325.52 That is comprised of hours docketed by the following timekeepers at GSNH with the corresponding hourly rates:

Mario J. Forte	\$550.00
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John McKeown	\$537.50
Sanja Sopic	\$266.03
Ernesto Aleman	\$150.00

5. To the best of my knowledge the rates charged by GSNH throughout the course of this proceeding are comparable to the rates charged by other law firms in the Toronto market for the provision of similar services.

6. The hourly billing rates outlined above are comparable to the hourly rates charged by GSNH for services rendered in relation to similar proceedings.

7. We anticipate that the amounts withheld from the distribution to be made to the senior secured creditor in this matter will be sufficient to pay the legal fees and disbursements incurred in the remainder of the receivership until discharge.

8. Any funds remaining from such withholding will be distributed to the senior secured creditor in accordance with the distribution order.

9. I make this affidavit in support of a motion by the Receiver for, among other things, approval of the fees and disbursements of GSNH as its counsel for the period from November 30, 2015 to May 24 , 2016.

SWORN before me at the City of Toronto,  
in the Province of Ontario  
this 26th day of May, 2016




A Commissioner for taking oaths, etc.

Sanja Sopic



MARIO J. FORTE

This is **Exhibit "A"** to the Affidavit of  
Mario J. Forte sworn before me this 26<sup>th</sup>  
day of May, 2016.



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A Commissioner for taking oaths, etc.



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

DATE: May 25, 2016  
FILE NO: 153078

Suite 1600  
480 University Avenue  
Toronto, Ontario  
M5G 1V2  
Telephone: (416) 597-9922  
Facsimile: (416) 597-3370

Attention : Adam Sherman and Paul Van Eyk

H.S.T. NO: 12233 6290 RT0001  
INVOICE NO: 143791

IN ACCOUNT WITH

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**GOLDMAN SLOAN NASH & HABER LLP**  
BARRISTERS & SOLICITORS

**RE: Elementa Group Inc. - Receivership**

**TO PROFESSIONAL SERVICES RENDERED** with respect to the above noted matter from November 17, 2015 to and including May 24, 2016;

DATE	LAWYER		TIME
Nov/17/15	SFS	Discussing Elementa next steps with M. Forte.	0.70
Nov/30/15	SFS	Attending return date of receivership application. Drafting order based on Justice Hainey's endorsement.	2.60
Dec/01/15	SFS	Discussing revisions to order formalizing Justice Hainey's endorsement. Sending same to Bennett Jones.	0.50
Dec/10/15	SFS	Preparing for and attending at in chambers appearance for status update.	1.70
Dec/21/15	SFS	Attending Elementa Receivership application.	0.80
Dec/23/15	SFS	Revising non-disclosure agreement and discussing same with M. Forte.	0.70
Dec/24/15	SFS	Revising non-disclosure agreement and emailing to client.	0.60
Jan/04/16	SFS	Correspondence with commercial list scheduling office re time for sales process motion.	0.50
Jan/06/16	SFS	Drafting cease and desist letters relating to intellectual property.	1.90

**ACCOUNTS ARE DUE WHEN RENDERED**

Pursuant to the Solicitors' Act interest at a rate of 3.00% per annum will be charged on amounts due, calculated commencing one month after the date of delivery of this account. Any disbursements recorded after preparation of this account will be billed at a later date.

	MJF	discussions with Eden Oliver concerning responses to media reports and following up with patent renewals	0.30
	MJF	guidance on responding to tampering and breach allegations against Elementa service providers.	0.10
Jan/07/16	SFS	Emailing cease and desist letters to client.	0.20
Jan/08/16	SFS	Reviewing Elementa Business Plan.	0.70
	MJF	review and prepare comments on bidding sheet for receiver and discussion and advice on process	0.70
Jan/11/16	SFS	Reviewing Elementa Business Plan and stalking horse agreement. Discussing same with M. Forte.	2.20
	MJF	discussion concerning potential bidders and strategy for concluding a stalking horse with minimal conditionality.	0.20
Jan/14/16	JSM	Inter-office conference M. Forte, left word with P. Mendes daCosta	0.20
Jan/15/16	JSM	Telephone call with P. Mendes daCosta regarding approach to due diligence	0.30
Jan/19/16	SFS	Reviewing revised term sheet provided by potential stalking horse bidder and discussing same with M. Forte.	0.50
	SFS	Reviewing precedent APA in preparation for drafting stalking horse agreement.	0.40
Jan/20/16	SFS	Drafting stalking horse asset purchase agreement based on stalking horse bidder's term sheet.	5.20
Jan/21/16	SFS	Reviewing draft stalking horse agreement with M. Forte. Revising same. Reviewing M. Forte's revisions.	4.20
	MJF	preparation of revisions to stalking horse APA and discussing changes with S Sopic	1.20
Jan/22/16	SFS	Discussing M. Forte's comments on stalking horse APA. Finalizing same and forwarding to client and Bennett Jones. Email correspondence with client and Bennett Jones.	0.70
Jan/25/16	SFS	Reviewing E. Oliver's comments on stalking horse APA with M. Forte and making appropriate changes. Discussing same with M. Forte and E. Oliver.	1.90
Jan/26/16	SFS	Email correspondence with client and Bennett Jones re patent schedule.	0.10

Jan/27/16	SFS	Revising APA based on bidding procedures provided by client.	4.10
Jan/28/16	SFS	Making client's revisions to agreement of purchase and sale and revising bidding procedures accordingly.	2.60
		Emailing same to Torkin Manes. Working on sales process order.	
Jan/29/16	SFS	Further revising sales process order based on discussions with M. Forte. Emailing same to client and opposing counsel. Discussing next steps with M. Forte.	2.50
	MJF	reviewing and commenting on Purchaser's changes to draft APA	0.90
Jan/31/16	MJF	reviewing options for proceeding with the APA and providing advice memo thereon	0.40
Feb/01/16	MJF	discussions with purchaser's counsel on scope of diligence; reviewing patent enquiry and responding to issues raised; preparing correspondence to purchaser's patent counsel	0.80
	JSM	Inter-office conference M. Forte regarding various IP issues relating to proposed sale	0.30
Feb/04/16	SFS	Reviewing M. Forte and client's comments on revised APA received from Torkin Manes.	2.40
Feb/05/16	SFS	Email correspondence with Torkin Manes re articles of amendment and terms of stalking horse bid.	0.30
Feb/08/16	SFS	Emailing most recent draft of stalking horse APA to E. Oliver.	0.10
Feb/10/16	SFS	Revising stalking horse sale agreement. Drafting notice of motion for stalking horse agreement approval.	2.50
Feb/11/16	SFS	Reviewing client's comments on near final stalking horse agreement, making revisions and finalizing same. Sending to purchaser's counsel.	0.90
Feb/13/16	SFS	Reviewing and revising Receiver's First Report.	0.80
	MJF	reviewing and preparing comments on draft receiver's report	0.60
Feb/16/16	SFS	Finalizing notice of motion and all materials for motion record. Putting together motion record. Serving same.	4.60
	MJF	reviewing correspondence from IESO and its counsel and preparing responding correspondence to IESO on behalf of the receiver; reviewing changes to motion	0.50

		record and notice issues	
Feb/17/16	SFS	Drafting factum in support of stalking horse approval	4.40
		motion. Filing motion materials at Commercial List. Assembling factum and serving on service list.	
Feb/18/16	SFS	Preparing for tomorrow's sale process motion and motion for approval of stalking horse agreement.	2.80
Feb/19/16	SFS	Preparing for and attending motion for approval of stalking horse agreement and sale process.	2.50
Feb/22/16	SFS	Phone call with Ministry of Finance re service list.	0.20
Feb/23/16	MJF	review IESO communications and report and advise on response	0.30
Feb/24/16	SFS	Reading email re IESO's position on potential termination of contract.	0.20
	MJF	discussion with IESO counsel on forbearance options and reporting to Receiver on discussion.	0.50
	MJF	discussion with the receiver on landlord position, JZ position on Project agreements and A. Ferri licence issues.	0.20
Feb/25/16	SFS	Discussing IESO's position on electricity from waste contracts. Phone call with counsel for Alison Wise re guarantee given for forbearance agreement. Discussing same with M. Forte. Reviewing forbearance and guarantee.	1.70
Feb/29/16	SFS	Discussing purported agreement with Andrew Ferri and Elementa with M. Forte.	0.20
	MJF	communication with A. Wise counsel on forbearance options; reviewing Ferri documents and related Elementa Corp material and discussions with Ferri counsel on the nature and content of the material.	1.00
Mar/01/16	SFS	Phone call with counsel for Alison Wise re withdrawal of demand on LP. Email to M. Forte re same.	0.40
Mar/02/16	SFS	Conference call with counsel for Alison Wise re guarantee and forbearance agreement.	0.40
Mar/07/16	SFS	Reviewing email correspondence to client.	0.10
	MJF	communications with each of counsel to A Wise, IESO and A. Ferris on dealing with respective disposition of their client's positions.	0.20

Mar/09/16	SFS	Discussing purported Ferri agreement with M. Forte and research to be done.	0.40
	SFS	Phone call with M. Forte re attendance at Bennett Jones' offices and next steps. Reading State Group decision on whether receiver constitutes representative of creditors.	0.70
Mar/10/16	SFS	Conference call with client and Bennett Jones re Ferri agreement. Discussing next steps and scheduling appointment with M. Forte. Email correspondence with E. Oliver and G. Finlayson.	1.40
	MJF	preparation of briefing note for scheduling matter; discussion concerning elements of motion for advice and directions	0.80
	EIA	TO ordering a Corporate Profile for ELEMENTA SSM INC.;	0.20
Mar/11/16	SFS	Attending at Bennett Jones offices and reviewing minutes of directors' meetings to find any reference to April 30th agreement with Northguard.	4.10
	MJF	attend meeting with prospective bidder's rep concerning process and due diligence matters; discussions with G. Finlayson concerning briefing note and court time	1.00
Mar/14/16	SFS	Discussing directors' minutes and next steps with M. Forte. Discussing outline of factum. Serving letter to Justice Newbould and obtaining scheduling appointment at Commercial List.	2.10
	MJF	preparing correspondence to Justice Newbould regarding hearing times and schedule; discussion with Torkin concerning process; reviewing due diligence materials and drafting receiver's report on advice and direction motion; discussion with G Finlayson concerning timing and related issues;	5.40
	EIA	TO ordering a Corporate Profile for Northguard Capital Corp;	0.20
Mar/15/16	SFS	Discussing corporate records with M. Forte and reviewing draft second report. Discussing outline of factum.	2.10
Mar/16/16	SFS	Discussing February 2014 letter from Northguard re SSM project with M. Forte.	0.40
	SFS	Discussing next steps with M. Forte. Reviewing second draft of receiver's report.	1.50

	MJF	discussion with Ferri counsel on location of documents. Correspondence with Baker Mackenzie concerning note and gsa issues; amending draft report; reviewing further documentation concerning Ferri loans.	0.90
Mar/17/16	SFS	Conducting research on language required to create a security interest and secured transactions and disguised sales. Discussing next steps with M. Forte. Reviewing briefing note ahead of tomorrow's appearance in chambers.	2.50
	MJF	discussion with Baker and Mackenzie on Ferri representation and loan documents; discussion with G. Finlayson on motion timetable; Discussion with Ferri counsel on motion timetable; reviewing the changes required in the Sale Process to accommodate motion for directions; review and amend court report and transmit to Richter; discussion with Richter concerning update and process to hearing etc.	0.80
	EIA	TO conduct a Bulk Act search (5 years) against ELEMENTA GROUP INC.;	0.20
Mar/18/16	SFS	Attending scheduling appointment before Justice Newbould for advice and directions.	3.10
	MJF	attend scheduling motion and corresponding with service list re: litigation schedule	0.50
	MJF	appear before Newbould J to set a lit schedule for Advice and direction motion; discussion with Torkin Manes concerning closing extension and changes to the Sale Process order	0.30
Mar/21/16	MJF	review of receiver's comments on draft report	0.20
Mar/24/16	SFS	Emailing service list to Bennett Jones.	0.10
Mar/25/16	SFS	Reviewing affidavit of Andrew Ferri and making notes re same. Reviewing affidavit of Eden Oliver.	1.10
	MJF	discussions on delivery of Ferri affidavit material;	0.20
Mar/26/16	SFS	Conference call with Bennett Jones re Ferri's affidavit. Conference call with Bennett Jones re possibility of filing reply affidavit.	0.90
Mar/28/16	SFS	Reviewing affidavit of John Ashbourne. Reviewing caselaw involving Andy Ferri. Reviewing reply affidavit of Ferri. Email correspondence re same. Researching PPSA, fraudulent preferences and Bulk Sales Act.	1.60
	MJF	discussions concerning Ferri position on security interests and response; review file and processing BJ	0.30

		materials and provide feedback	
Mar/30/16	SFS	Revising notice of motion and discussing file with M. Forte.	2.30
Mar/31/16	SFS	Conducting research and drafting factum for upcoming motion for advice and directions.	6.30
Apr/01/16	SFS	Revising factum for upcoming motion for advice and directions. Discussing same with M. Forte.	4.70
	MJF	review and revise draft factum	0.30
Apr/02/16	SFS	Researching fraudulent conveyances and adding to factum.	3.10
Apr/03/16	SFS	Finalizing factum based on M. Forte's revisions. Forwarding caselaw cited in factum to assistant.	1.10
	MJF	discussion re: PPSA issues and revisions to argument concerning liquidation of redundant assets	0.30
Apr/04/16	SFS	Working with assistant to finalize factum and arranging to be served and filed.	2.30
	MJF	reviewing all filed materials in prep for motion for advice and directions: preparation of argument; discussions with Torkin re: closing materials and IP conveyance issues;	2.80
Apr/05/16	SFS	Attending motion for advice and directions re April 2013 Agreement.	4.50
	MJF	prepare and attend court re. advice and direction motion; negotiations with G Temelini re order; re attend before Conway J. to finalize order; discussion D. Emeleh re SSM issue	1.20
Apr/06/16	MJF	assisting prep of motion for vesting;	0.30
Apr/07/16	SFS	Reviewing Receiver's Third Report, notice of motion and vesting order.	0.80
	MJF	revising motion materials for vesting order; Discussion with Dave D'AMico: Reviewing D'amico materials	0.40
Apr/08/16	SFS	Finalizing and serving motion record for vesting order.	1.20
	MJF	discussions with Torkin Manes and Rick F. concerning closing and SSM contracts: completing changes to vesting order materials.	1.20
Apr/11/16	SFS	Reviewing final motion record to be filed for upcoming vesting order motion.	0.30

Apr/12/16	SFS	Drafting factum for motion for approval and vesting order.	2.90
Apr/13/16	SFS	Finalizing factum and arranging to be served and filed.	1.80
	MJF	discussions concerning IP transfers and related closing matters; preparation of closing docs including share transfer; reviewing minute books of GP and LP and related LP agreement re transfer matters and considering changes to vesting order; correspondence with Wise counsel in connection with vesting of LP shares and cleansing on LP on vesting; discussions with IESO counsel regarding termination of PPA and position of vesting motion and possible meetings with purchaser; discussions with Eden Oliver regarding purchaser's request for a quit claim in respect of US patents for registration purposes;	1.60
Apr/14/16	SFS	Discussing next steps re vesting order and closing with M. Forte. Reviewing PPSA search results. Preparing for tomorrow's motion and revising form of order to reflect purchaser's request for name change. Preparing submissions for motion.	4.10
	EIA	TO conducting PPSA searches (uncertified) against ELEMENTA ALGOMA INC., ELEMENTA GROUP INC., ELEMENTA ALGOMA LP., and ELEMENTA HOLDINGS LTD.	0.40
Apr/15/16	SFS	Preparing for and attending motion for approval and vesting order.	3.90
	MJF	negotiate vesting order and settlement of recipient with counsel; attend vesting motion; discussions with IESO counsel re; position on contract	0.80
Apr/16/16	MJF	preparing briefing note on no asset bankruptcy and related matters	0.20
Apr/18/16	SFS	Reviewing closing documents received from Bradam's counsel. Email correspondence with M. Forte re same. Revising transfer, conveyance and direction. Drafting notice of motion for fee approval and distribution motion. Emailing precedents of fee affidavits to M. Forte.	2.30
	MJF	reviewing purchasers closing materials and revising; discussions with counsel on form and content of IP transfers.	2.40
Apr/19/16	SFS	Discussing closing documents received and next steps re closing and motion with M. Forte.	1.30
	MJF	engaged in numerous discussions with counsel concerning HST matters and asset allocation issue	1.40



Apr/20/16	SFS	Reviewing closing documents received, and draft of opinion to Receiver. Emailing blacklines of conveyance and share transfer to purchaser's counsel.	0.60
	MJF	engaged in various discussions and matters pertaining to the closing	1.20
Apr/26/16	SFS	Revising share transfer, direction and conveyance to reflect tomorrow's closing date. Email to client re notarization of IP assignment. Discussing same with M. Forte.	0.40
Apr/27/16	MJF	dealing with closing and related issues	0.20
Apr/28/16	MJF	dealing with closing issues and considering options to seize funds, and amendments to court orders etc.	0.70
Apr/29/16	MJF	dealing with logistics of deal extension and related matters.	0.40
May/02/16	SFS	Discussing amendment of approval and vesting order and notice of motion with M. Forte. Drafting amended order.	1.90
	MJF	discussions with Torkin on the completion of the transaction and the provision of affidavit evidence for motion; dealing with questions concerning the transfer of funds; discussion and advice concerning procedure and materials for obtaining approval of changes to the vesting order and granting of court ordered charge; preparation of a draft receiver's report concerning the vesting order amendments and the granting of a charge in favour of the receiver.	2.10
May/03/16	SFS	Drafting amended and restated order and notice of motion. Meeting with M. Forte to discuss same. Making M. Forte's revisions.	2.20
May/04/16	SFS	Reviewing affidavit of F. Sulley. Reviewing E. Oliver's comments on same.	0.80
May/05/16	SFS	Revising Fay Sulley's affidavit. Email correspondence with Bennett Jones and Richter re same.	2.60
	MJF	reviewing changes to affidavit and draft report; discussions with Torkin re; affidavit	0.50
May/10/16	SFS	Contacting commercial list to obtain next available date to appear before a judge. Attending at commercial list to obtain same. Compiling motion record and serving on service list.	2.60

May/12/16	SFS	Discussing tomorrow's motion and closing arrangements with M. Forte. Finalizing draft order and email  correspondence with Bradam and client re promissory note.	1.10
May/13/16	SFS	Attending motion to obtain amended and restated vesting order. Circulating same to service list. Attending in client's office to notarize IP assignment and obtain signed closing documents. Discussing next steps with M. Forte.	4.10
	MJF	dealing with various closing issues and related matters.	0.50
May/17/16	SFS	Instructing assistant re scheduling of motion for distribution and discharge of Receiver.	0.20
	MJF	discussions and advice dealing with distribution and discharge format and organizing materials; commence prep re: fee affidavit ;	0.60
May/18/16	SFS	Discussing company's assignment into bankruptcy with M. Forte and J. Berrall. Emailing Receiver re same. Email correspondence with Receiver re same.	0.70
May/24/16	SFS	Discussing timing of service of Receiver's motion materials with M. Forte. Revising notice of motion. Drafting discharge order. Email correspondence with client re same.	2.10

OUR FEE HEREIN  
H.S.T. on Fee

\$59,530.00  
7,738.90

**DISBURSEMENTS:**

Telephone Charges	20.77
Photocopies	336.25
Courier	65.00
ESC Corp. Fee	139.50
Laser Copies	1,268.25
Courier*	113.53
ESC Gov't Disb.*	48.00
Filing of Motion Record in OSCJ (Commercial)*	127.00
Filing Motion Record*	127.00
Filing motion Record	127.00
Printing - Gen Certified Copy	72.00
Filing motion Record*	127.00

TOTAL  
DISBURSEMENTSH.S.T.

\$2,571.30  
\$263.74

on Disbursements

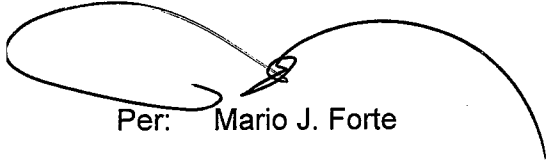
DISBURSEMENTS MARKED WITH \* INDICATE EXEMPT

<b>TOTAL LEGAL FEE AND DISBURSEMENTS (includes\$8,002.64H.S.T.)</b>	<u><b>\$70,103.94</b></u>
<b>PREVIOUS BALANCE OWING</b>	<u><b>\$0.00</b></u>

<b>TOTAL BALANCE DUE</b>	<u><b>\$70,103.94</b></u>
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**THIS IS OUR ACCOUNT HEREIN**

**GOLDMAN SLOAN NASH & HABER LLP**



Per: Mario J. Forte

E. & O. E.

SCHEDULE TO ACCOUNT

RUN DATE: 25-May-16

Goldman Sloan Nash & Haber LLP

BILLING STATEMENT THROUGH

May 25, 2016

**TIME SUMMARY**

Sanja F. Sopic	SFS	175	\$266.53	144.00	\$ 38,380.00
Mario J. Forte	MJF	618	\$550.00	37.40	\$ 20,570.00
John S. McKeown	JSM	845	\$537.50	0.80	\$ 430.00
Ernesto I. Aleman	EIA	930	\$150.00	1.00	\$ 150.00
TOTAL FEES					\$59,530.00
HST ON FEES					7,738.90

**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

Commercial List File No. CV-15-11198-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto**

**AFFIDAVIT OF MARIO FORTE**

**GOLDMAN SLOAN NASH & HABER LLP**

480 University Avenue, Suite 1600

TORONTO, ON M5G 1V2

Fax: 416-597-3370

**Mario Forte** (LSUC #: 27293F)

Tel: 416-597-6477

Email: forte@gsnh.com

**Sanja Sopic** (LSUC #: 66487P)

Tel: 416-597-7876

Email: sopic@gsnh.com

Lawyers for Richter Advisory Group Inc., in its capacity as the  
Court appointed Receiver of Elementa Group Inc.

TAB 3

**SERVICE LIST**

**RICHTER ADVISORY GROUP INC.  
in its capacity as Court-Appointed Receiver  
of ELEMENTA GROUP INC.  
and not in its personal capacity**

<p><b>BENNETT JONES LLP</b> One First Canadian Place Suite 3400, P.O. Box 130 Toronto, ON M5A 1A4</p> <p><b>Gavin H. Finlayson</b> (LSUC #44126D) Tel: 416.863.1200 Email: <a href="mailto:finlayson@bennettjones.com">finlayson@bennettjones.com</a></p> <p><b>Jason M. Berall</b> (LSUC #68011F) Tel: 416.863.1200 Email: <a href="mailto:berallj@bennettjones.com">berallj@bennettjones.com</a></p> <p>Fax: 416.863.1716</p> <p><b>Lawyers for the Applicant, Bennett Jones LLP</b></p>	<p><b>ELEMENTA GROUP INC.</b> Suite 302, 509 Glendale Avenue East Niagara-on-the-Lake, ON L0S 1J0</p> <p><b>John Ashbourne</b> Email: <a href="mailto:john@ashbournemanagement.com">john@ashbournemanagement.com</a></p> <p>Chairman of the Board</p>
<p><b>GARY BLOKHUIS</b> 37 Pine Ridge Avenue Woodbridge, ON L4L 2H8</p>	<p><b>GARY BLOKHUIS D.B.A. BLOKHUIS HOLDINGS</b> 37 Pine Ridge Avenue Woodbridge, ON L4L 2H8</p>
<p><b>LOOPSTRA NIXON LLP</b> 600 – 135 Queens Plate Drive Etobicoke, ON M9W 6V7</p> <p><b>R. Graham Phoenix</b> Email: <a href="mailto:gphoenix@loonix.com">gphoenix@loonix.com</a></p> <p><b>Agent for: 2124732 Ontario Inc.</b></p>	<p><b>HER MAJESTY IN RIGHT OF ONTARIO REPRESENTED BY MINISTER OF FINANCE</b></p> <p>Accounts Management and Collections Branch, Collections Operations Insolvency Unit 33 King Street West Oshawa, Ontario P.O. Box 627 L1H 8H5</p> <p>Email: <a href="mailto:insolvency.unit@ontario.ca">insolvency.unit@ontario.ca</a></p>

<p><b>DAVID &amp; SHARON D'AMICO</b>  7 Pickwick Place  Box 388  Fonthill, ON L0S 1E0</p> <p><a href="mailto:daviddamico@davidchev.com">daviddamico@davidchev.com</a></p>	<p><b>SCARFONE HAWKINS LLP</b>  1 James Street South, 14<sup>th</sup> Floor  Hamilton, ON L8P 4R5</p> <p><b>David Thompson</b>  Email: <a href="mailto:thompson@shlaw.ca">thompson@shlaw.ca</a></p> <p><b>Brent Marshall</b>  Email: <a href="mailto:bmarshall@shlaw.ca">bmarshall@shlaw.ca</a></p> <p><b>Lawyers for Jayson Zwierschke and Leonard Zwierschke</b></p>
<p><b>JAYSON ZWIERSCHKE</b>  229 Creekside Drive  Welland, ON L3C 0B6</p> <p>Email: <a href="mailto:j.zwierschke@outlook.com">j.zwierschke@outlook.com</a></p> <p><b>LEONARD ZWIERSCHKE</b>  229 Creekside Drive  Welland, ON L3C 0B6</p> <p>Email: <a href="mailto:j.zwierschke@outlook.com">j.zwierschke@outlook.com</a></p>	<p><b>BRADAM CANADA INC.</b>  C/O BRADAM GROUP LLC  Corporate Office  7904 Interstate Court  North Ft. Myers FL 33917</p> <p><b>Rick Finkbeiner</b>  Email: <a href="mailto:rick@bradamgroup.com">rick@bradamgroup.com</a></p> <p><b>Purchaser</b></p>
<p><b>TORKIN MANES LLP</b>  151 Yonge Street  Toronto, ON M5C 2W7</p> <p><b>Fay Sulley</b>  Tel: 416.863.1188  Fax: 1.888.587.5769  Email: <a href="mailto:fsulley@torkinmanes.com">fsulley@torkinmanes.com</a></p> <p><b>Lawyers for the Purchaser</b></p>	<p><b>RUETERS LLP</b>  250 Yonge Street, Suite 2200  P.O. Box 4  Toronto, ON M5B 2L7</p> <p>Tel: 416.869-9090  Fax: 416.869.3411</p> <p><b>Garett Schromm</b>  Direct Line: 416.597.5409  Email: <a href="mailto:garett.schromm@ruetersllp.com">garett.schromm@ruetersllp.com</a></p> <p><b>Lawyers for Alison Wise</b></p>



<p><b>WRIGHT TEMELINI LLP</b>  411 Richmond Street East, Suite 303  Toronto, ON M4A 3S5</p> <p>Tel: 416.479.9686  Fax: 416.368.7474</p> <p><b>Greg Temelini</b></p> <p>Email: <a href="mailto:greg@wrighttemelini.com">greg@wrighttemelini.com</a></p> <p><b>Lawyers for Northguard Capital Corp. and Andrew Ferri</b></p>	<p><b>McCAGUE BORLACK LLP</b>  Suite 2700, P.O. Box 136  The Exchange Tower  130 King Street West  Toronto, ON M5X 1C7</p> <p><b>David Elmaleh</b>  Tel: 416.862.6298  Email: <a href="mailto:delmaleh@mccagueborlack.com">delmaleh@mccagueborlack.com</a></p> <p><b>Lawyers for Independent Electricity System Operator (“IESO”)</b></p>
<p><b>ELEMENTA SSM INC.</b></p> <p>Suite 302, 509 Glendale Avenue East  Niagara-on-the-Lake, ON L0S 1J0</p> <p><b>Andrew Ferri</b>  President  <a href="mailto:andyferri@outlook.com">andyferri@outlook.com</a></p>	<p><b>DEPARTMENT OF JUSTICE CANADA</b>  Ontario Regional Office  Tax Services Division</p> <p>The Exchange Tower  130 King St. West, Suite 3400, Box 36  Toronto, ON M5X 1K6</p> <p><b>Diane Winters</b>  Legal Counsel  Tel: 416.973.3172  Fax: 416.973.0810  Email: <a href="mailto:diane.winters@justice.gc.ca">diane.winters@justice.gc.ca</a></p> <p><b>Lawyers for Her Majesty the Queen in Right of Canada as represented by the Minister of National Revenue</b></p>

**IN THE MATTER OF THE RECEIVERSHIP OF  
ELEMENTA GROUP INC.**

Commercial List File No. CV-15-11198-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceedings commenced at  
Toronto**

**MOTION RECORD OF THE RECEIVER  
(Distribution, Discharge and Ancillary Relief)  
Tuesday, June 7, 2016**

**GOLDMAN SLOAN NASH & HABER LLP**

480 University Avenue, Suite 1600  
TORONTO, ON M5G 1V2  
Fax: 416-597-3370

**Mario Forte** (LSUC #: 27293F)  
Tel: 416-597-6477  
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**Sanja Sopic** (LSUC #: 66487P)  
Tel: 416-597-7876  
Email: sopic@gsnh.com

Lawyers for Richter Advisory Group Inc., in its capacity as the  
Court appointed Receiver of Elementa Group Inc.