

Holland N. O'Neil (TX 14864700)  
Thomas C. Scannell (TX 24070559)  
**FOLEY & LARDNER LLP**  
2021 McKinney Avenue, Suite 1600  
Dallas, TX 75201  
Telephone: (214) 999-3000  
Facsimile: (214) 999-4667  
honeil@foley.com  
tscannell@foley.com

Timothy C. Mohan  
(admitted *pro hac vice*)  
**FOLEY & LARDNER LLP**  
1144 15th Street, Ste. 2200  
Denver, CO 80202  
Telephone: (720) 437-2000  
Facsimile: (720) 437-2200  
tmohan@foley.com

Nora J. McGuffey (TX 24121000)  
Quynh-Nhu Truong (TX 24137253)  
**FOLEY & LARDNER LLP**  
1000 Louisiana Street, Suite 2000  
Houston, TX 77002  
Telephone: (713) 276-5500  
Facsimile: (713) 276-5555  
nora.mcguffey@foley.com  
qtruong@foley.com

**PROPOSED COUNSEL TO  
DEBTORS AND  
DEBTORS IN POSSESSION**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

---

In re:

Higher Ground Education, Inc., *et al.*,<sup>1</sup>

Debtor.

§  
§ Chapter 11  
§  
§ Case No.: 25-80121-11 (MVL)  
§  
§ (Jointly Administered)

---

**DEBTORS' MOTION FOR ENTRY OF AN ORDER  
(I) APPROVING A SETTLEMENT AGREEMENT WITH PLAINTIFFS  
IN CERTAIN LITIGATION PURSUANT TO FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 9019 AND (II) GRANTING RELATED RELIEF**

---

---

<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal identification number, are: Higher Ground Education Inc. (7265); Guidepost A LLC (8540); Prepared Montessorian LLC (6181); Terra Firma Services LLC (6999); Guidepost Birmingham LLC (2397); Guidepost Bradley Hills LLC (2058); Guidepost Branchburg LLC (0494); Guidepost Carmel LLC (4060); Guidepost FIC B LLC (8609); Guidepost FIC C LLC (1518); Guidepost Goodyear LLC (1363); Guidepost Las Colinas LLC (9767); Guidepost Leawood LLC (3453); Guidepost Muirfield Village LLC (1889); Guidepost Richardson LLC (7111); Guidepost South Riding LLC (2403); Guidepost St Robert LLC (5136); Guidepost The Woodlands LLC (6101); Guidepost Walled Lake LLC (9118); HGE FIC D LLC (6499); HGE FIC E LLC (0056); HGE FIC F LLC (8861); HGE FIC G LLC (5500); HGE FIC H LLC (8817); HGE FIC I LLC (1138); HGE FIC K LLC (8558); HGE FIC L LLC (2052); HGE FIC M LLC (8912); HGE FIC N LLC (6774); HGE FIC O LLC (4678); HGE FIC P LLC (1477); HGE FIC Q LLC (3122); HGE FIC R LLC (9661); LePort Emeryville LLC (7324); AltSchool II LLC (0403). The Debtors' mailing address is 1321 Upland Dr. PMB 20442, Houston, Texas 77043.



**If you object to the relief requested, you must respond in writing. Unless otherwise directed by the Court, you must file your response electronically at <https://ecf.txnb.uscourts.gov/> no more than twenty-four (24) days after the date this motion was filed. If you do not have electronic filing privileges, you must file a written objection that is actually received by the clerk and filed on the docket no more than twenty-four (24) days after the date this motion was filed. Otherwise, the Court may treat the pleading as unopposed and grant the relief requested.**

**A hearing will be conducted on this matter on August 21, 2025, at 1:30 p.m. (prevailing Central Time) before the Honorable Michelle V. Larson, United States Bankruptcy Judge for the Northern District of Texas, U.S. Bankruptcy Court, 1100 Commerce Street, 14<sup>th</sup> Floor, Courtroom No. 2, Dallas, TX 75242.**

**You may participate in the hearing either in person or via WebEx (by video or telephone via the Court's WebEx platform). Video communication will be by use of the Cisco WebEx platform. Connect via the Cisco WebEx application or click the link on Judge Larson's home page. Click the settings icon in the upper right corner and enter your name under the personal information setting.**

**Hearing appearances must be made electronically in advance of electronic hearings. To make your appearance, click the "Electronic Appearance" link on Judge Larson's home page. Select the case name, complete the required fields and click "Submit" to complete your appearance.**

Higher Ground Education, Inc. ("**HGE**") and its affiliated debtors and debtors in possession (collectively, the "**Debtors**") in the above-captioned chapter 11 cases (the "**Chapter 11 Cases**") hereby file *Debtors' Motion for Entry of an Order (I) Approving a Settlement Agreement with Plaintiffs in Certain Litigation Pursuant to Federal Rule of Bankruptcy Procedure 9019 and (II) Granting Related Relief* (this "**Motion**").<sup>2</sup> In support of this Motion, the Debtors submit the *Declaration of Jonathan McCarthy in Support of the Debtors' 9019 Motion* (the "**McCarthy**

---

<sup>2</sup> Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the First Day Declaration (defined below).

**Declaration**”), attached hereto as **Exhibit B**. In further support of the Motion, the Debtors respectfully represent as follows:

**I.**  
**JURISDICTION, VENUE, AND PREDICATES FOR RELIEF**

1. The United States Bankruptcy Court for the Northern District of Texas (the “**Court**”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b). The Debtors confirm their consent, pursuant to Rule 7008 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), to the entry of a final order by the Court.

2. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409.

3. The bases for the relief requested herein are section 105 of title 11 of the United States Code, 11 U.S.C. §§ 101–1532 (the “**Bankruptcy Code**”) and Bankruptcy Rule 9019.

**II.**  
**BACKGROUND**

4. From their inception in 2016 through the beginning of 2025, the Debtors grew to over 150 schools (the “**Schools**”), becoming the largest owner and operator of Montessori schools in the world. The Debtors’ mission was to modernize and mainstream the Montessori education movement. In addition to owning and operating the Schools, the Debtors provided training and consulting services to Montessori schools around the world. The Debtors sought to offer an end-to-end experience that covers the entire lifecycle of a family at school, virtually, and at home, from birth through secondary education—enabled by next-gen, accredited Montessori instruction. Information on the Debtors, their businesses, and a summary of the relief requested in this Motion can be found in the *Declaration of Jonathan McCarthy in Support of First Day Motions* [Docket No. 15] (the “**First Day Declaration**”) and is incorporated herewith.

5. On June 17, 2025, and June 18, 2025 (collectively, the “**Petition Date**”), the Debtors filed voluntary petitions for relief under chapter 11. The Debtors remain in possession of their property and are managing their businesses as debtors-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. The court has not appointed a trustee and the official committee of unsecured creditors was appointed on July 9, 2025 [Docket No. 158] (the “**Committee**”).

### **III.** **RELIEF REQUESTED**

6. By this Motion, the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Proposed Order**”): (a) approving the proposed settlement (the “**Settlement**”) between A.W. and D.W., Individually, as Next Friends, Natural Guardians, and Legal Parents of M.W., a Minor (“**Plaintiffs**”) and the insurer for Guidepost A, LLC (“**Guidepost**”) and Higher Ground Education, Inc. and Charlie Marie Jones in connection with the litigation styled as *A.W. and D.W., Individually, as Next Friends, Natural Guardians, and Legal Parents of M.W., a Minor v. Guidepost A, LLC, Higher Ground Education, Inc., and Charlie Marie Jones*, Case No. 24CV009307, before the Superior Court of Fulton County, State of Georgia (the “**Action**”); and (b) granting related relief, including lifting the automatic stay for the limited purpose of allowing the litigants in the Action, which involves injuries to a minor child, to file a consent petition to settle the claims in the Action.

### **IV.** **SETTLEMENT BACKGROUND**

7. The Debtors operated various Schools, including the school known as Guidepost Montessori School of Marietta (“**Guidepost Marietta**”) located in Marietta, Georgia. Guidepost Marietta is a school that provided education for both toddlers (sixteen (16) months to three (3)

years old) and children (three (3) years to six (6) years old). Plaintiffs' minor child attend Guidepost Marietta and the child was injured on Guidepost Marietta's playground. As a result of the injury, Plaintiffs filed the Action on July 24, 2024 seeking, among other things, actual, general, special, compensatory, economic, punitive, and other allowable damages against the defendants to the Action.

8. As the Action was covered under the Debtors' insurance policy HHN 8598848-10 (the "**Insurance Policy**") with Berkley Human Services (the "**Insurance Provider**"), the Debtors tendered the Action to the Insurance Provider. The Insurance Provider assumed the defense of the Action for the Debtors and the other named defendant. Throughout the Action, the parties exchanged written discovery, produced documents, and obtained materials from nonparties and held a mediation on March 31, 2025 (the "**Mediation**"). While the Mediation was not successful, the parties continued to negotiate a settlement and on June 20, 2025, the parties agreed to the Settlement. The Settlement provides for the payment of \$100,000 from the Insurance Provider to fund the settlement on conditions approved by the trial court in the Action (the "**Settlement Payment**"). Because the Action involves injuries to a minor, Georgia law requires the trial court to approve of the settlement, and thus, the Debtors request relief from the automatic stay to allow for the final resolution of the Action.

## V. **BASIS FOR RELIEF**

9. Settlements in bankruptcy are favored as a means to minimize litigation, expedite administration of the bankruptcy estate, and provide for efficiently resolving bankruptcy cases. *Myers v. Martin (In re Martin)*, 91 F.3d 389, 393 (3d Cir. 1996); *see also Rivercity v. Herpel (In re Jackson Brewing Co.)*, 624 F.2d 599, 602 (5th Cir. 1980). Under Bankruptcy Rule 9019(a), a bankruptcy court may, after appropriate notice and a hearing, approve a compromise or settlement

so long as the proposed settlement is fair, reasonable, and in the best interest of the estate. *See In re Age Ref. Inc.*, 801 F.3d 530, 540 (5th Cir. 2015). Ultimately, “approval of a compromise is within the sound discretion of the bankruptcy court.” *See United States v. AWECO, Inc. (In re AWECO, Inc.)*, 725 F.2d 293, 297 (5th Cir. 1984); *Jackson Brewing*, 624 F.2d at 602–03.

10. In evaluating a request under Bankruptcy Rule 9019, the United States Court of Appeals for the Fifth Circuit applies a three-part test, “with a focus on comparing ‘the terms of the compromise with the rewards of litigation.’” *Official Committee of Unsecured Creditors v. Cajun Elec. Power Coop. by & through Mabey (In re Cajun Elec. Power Coop.)*, 119 F.3d 349, 356 (5<sup>th</sup> Cir. 1997) (citing *Jackson Brewing*, 624 F.2d at 602). The Fifth Circuit has instructed courts to consider: “(1) the probability of success in the litigation, with due consideration for the uncertainty of law and fact, (2) the complexity and likely duration of the litigation and any attendant expense, inconvenience and delay, and (3) all other factors bearing on the wisdom of the compromise.” *Id.* Under the third factor, the Fifth Circuit has specified two additional factors that bear on the decision to approve a proposed settlement. First, the court should consider “the paramount interest of creditors with proper deference to their reasonable views.” *Id.*; *Conn. Gen. Life Ins. Co. v. United Cos. Fin. Corp. (In re Foster Mortg. Corp.)*, 68 F.3d 914, 917 (5th Cir. 1995). Second, the court should consider the “extent to which the settlement is truly the product of arms-length bargaining, and not of fraud or collusion.” *Age Ref. Inc.*, 801 F.3d at 540; *Foster Mortg. Corp.*, 68 F.3d at 918 (citations omitted).

11. The bar for approving a settlement is low in the Fifth Circuit: “[a] proposed compromise and settlement need not result in the best possible outcome for the debtor, but must not fall beneath the lowest point in the range of reasonableness.” *See Gilmour v. Conn. Gen. Life Ins. Co. (In re Victory Med. Center Mid-Cities, LP)*, 601 B.R. 739, 749 (Bankr. N.D. Tex. 2019)

(citing *In re Mirant Corp.*, 348 B.R. 725, 743 (Bankr. N.D. Tex. 2006)). When a bankruptcy court evaluates a Bankruptcy Rule 9019 settlement, “[it] is unnecessary to conduct a mini-trial to determine the probable outcome of any claims waived in the settlement.” *Official Comm. of Unsecured Creditors v. Cajun Elec. Power Coop. by & Through Mabey (In re Cajun Elec. Power Coop.)*, 119 F.3d 349 (5th Cir. 1997). Rather, “[t]he judge need only apprise himself [sic] of the relevant facts and law so that he can make an informed and intelligent decision.” *Id.* (citing *La Salle Nat’l Bank v. Holland (In re American Reserve Corp.)*, 841 F.2d 159, 163 (7th Cir. 1987)).

**a. The Probability of Success, Complexity, and Likely Duration of the Litigation**

12. The first and second factors address the probability of success, complexity, and likely duration of the litigation, and weigh in favor of approving the Settlement. The parties are currently in a dispute over damages due to the Plaintiffs’ child’s injuries, as set forth in the Action. Following active negotiations in an effort to resolve their issues, the reached a negotiated resolution as embodied in the Settlement. The alternative to a negotiated resolution would require full prosecution of the Action’s underlying claims. Though the Debtors believe that they may be able to prevail in litigation against the Plaintiffs, success would not be assured. Further, the dispute between the parties stems from complicated factual and legal issues and resolving such issues would necessarily involve drawn out litigation, which could take years to resolve. In contrast, the Settlement provides for the payment of the Settlement Payment by the Insurance Provider under the Insurance Policy in exchange for a complete release of all claims by the Plaintiffs. The Debtors have therefore determined that the Settlement Payment and entry into the Settlement is a reasonable resolution of the outstanding issues set forth in the Action.

**b. All Other Factors Bearing on the Wisdom of the Compromise**

13. Additionally, the Debtors' entry into the Settlement is in the best interest of creditors and the Debtors' estates. The Settlement provides for the immediate resolution of the Action, with the Settlement Payment being made by the Insurance Provider and not from the Debtors' assets. Further, the Settlement provides an ultimate resolution for the Plaintiffs and their minor child – bringing an end to the Action and allowing all parties to move forward. The Settlement is a sound exercise of the Debtors' business judgment and the Debtors have determined, in consultation with their advisors, that the Settlement – which does not result in any cash outflows from the Debtors' estates – is appropriate given the facts and circumstances. The Debtors have consulted with their DIP Lenders and the Committee which support entry in the Settlement.

**c. Relief from the Automatic Stay is Warranted**

14. The Debtors request that the automatic stay be lifted to the extent required to implement the Settlement. Section 362(d)(1) allows the bankruptcy court to lift or modify the automatic stay for “cause.” The term “cause” is not defined in the Bankruptcy Code; accordingly, courts should determine whether cause exists on a case-by-case basis. *See Claughton v. Mixton*, 33 F.3d 4, 5 (4th Cir. 1994). Here, for the reasons set forth above, the Settlement is in the best interests of the Debtors' estates and, therefore, cause exists to modify the stay as required to implement the Settlement.

**VI.**  
**REQUEST FOR BANKRUPTCY RULE 6004(H) WAIVER**

15. The Debtors request that the stay imposed by Bankruptcy Rule 6004(h) be modified such that any order entered by the Court shall be effective immediately upon entry for the Settlement to become effective and binding on the parties and for the Settlement Payment to be paid.



**VII.**  
**RESERVATION OF RIGHTS**

16. Nothing contained herein or any action taken pursuant to relief requested is intended to be or shall be construed as (a) an admission as to the validity of any claim against the Debtors; (b) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for, or validity of any claim or interest under applicable law or non-bankruptcy law; (c) a promise or requirement to pay any claim; (d) a waiver of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable law; (e) a request for or granting of approval for assumption of any agreement, contract, program, policy, or lease under section 365 of the Bankruptcy Code; or (f) an admission as to the validity, priority, enforceability, or perfection of any lien on, security interest in, or other encumbrance on property of the Debtors' estates. Likewise, if the Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended to be and should not be construed as an admission to the validity of any claim or a waiver of the Debtors' or any party in interest's rights to subsequently dispute such claim.

**VIII.**  
**NOTICE**

17. The Debtors will provide notice of this Motion (a) the Office of the United States Trustee for the Northern District of Texas; (b) the United States Attorney's Officer for the Northern District of Texas; (c) the state attorney generals for all states in which the Debtors conduct or have recently conducted business; (d) the Internal Revenue Service, (e) counsel to the Committee; (f) counsel to Five Y and 2HR; (g) counsel to Guidepost Global; (h) counsel to the Insurance Provider; (i) counsel to the Plaintiffs; and (j) any other party entitled to notice pursuant to Bankruptcy Rule 2002 and Local Rule 2002-1. The Debtors respectfully submit that no further notice of this Motion is required.

18. The pleadings in these Chapter 11 Cases and supporting papers are available on the Debtors' website at [www.veritaglobal.net/HigherGround](http://www.veritaglobal.net/HigherGround) or on the Bankruptcy Court's website at <https://ecf.txnb.uscourts.gov/>. You can request any pleading you need from (i) the proposed noticing agent at: [HigherGroundInfo@veritaglobal.com](mailto:HigherGroundInfo@veritaglobal.com), (888) 733-1431 (U.S./Canada) (toll-free), +1 (310) 751-2632 (International), or (ii) proposed counsel for the Debtors at: Foley & Lardner LLP, 1144 15<sup>th</sup> Street, Suite 2200, Denver, CO 80202, Attn: Tim Mohan ([tmohan@foley.com](mailto:tmohan@foley.com)), and Foley & Lardner LLP, 1000 Louisiana Street, Suite 2000, Houston, Texas 77002, Attn: Nora McGuffey ([nora.mcguffey@foley.com](mailto:nora.mcguffey@foley.com)) and Quynh-Nhu Truong ([qtruong@foley.com](mailto:qtruong@foley.com)).

WHEREFORE, the Debtors respectfully request entry of the Proposed Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other relief as the Court deems appropriate under the circumstances.

*[Remainder of page intentionally left blank.]*

DATED: July 24, 2025

Respectfully submitted by:

/s/ Holland N. O'Neil

Holland N. O'Neil (TX 14864700)  
Thomas C. Scannell (TX 24070559)  
**FOLEY & LARDNER LLP**  
2021 McKinney Avenue, Suite 1600  
Dallas, TX 75201  
Telephone: (214) 999-3000  
Facsimile: (214) 999-4667  
honeil@foley.com  
tscannell@foley.com

-and-

Timothy C. Mohan (admitted *pro hac vice*)  
**FOLEY & LARDNER LLP**  
1144 15th Street, Ste. 2200  
Denver, CO 80202  
Telephone: (720) 437-2000  
Facsimile: (720) 437-2200  
tmohan@foley.com

-and-

Nora J. McGuffey (TX 24121000)  
Quynh-Nhu Truong (TX 24137253)  
**FOLEY & LARDNER LLP**  
1000 Louisiana Street, Suite 2000  
Houston, TX 77002  
Telephone: (713) 276-5500  
Facsimile: (713) 276-5555  
nora.mcguffey@foley.com  
qtruong@foley.com

**PROPOSED COUNSEL TO DEBTORS  
AND DEBTORS IN POSSESSION**

**CERTIFICATE OF SERVICE**

I certify that on July 24, 2025, 2025, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas.

/s/ Nora J. McGuffey  
Nora J. McGuffey

## **Exhibit A**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:  Higher Ground Education, Inc., <i>et al.</i> , <sup>1</sup>  Debtor.	§ § § § § §	Chapter 11  Case No.: 25-80121-11 (MVL)  (Jointly Administered)
------------------------------------------------------------------------------------------	----------------------------	-----------------------------------------------------------------------------

**ORDER (I) APPROVING A SETTLEMENT AGREEMENT WITH  
PLAINTIFFS IN CERTAIN LITIGATION PURSUANT TO FEDERAL RULE OF  
BANKRUPTCY PROCEDURE 9019 AND (II) GRANTING RELATED RELIEF**

---

<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal identification number, are: Higher Ground Education Inc. (7265); Guidepost A LLC (8540); Prepared Montessorian LLC (6181); Terra Firma Services LLC (6999); Guidepost Birmingham LLC (2397); Guidepost Bradley Hills LLC (2058); Guidepost Branchburg LLC (0494); Guidepost Carmel LLC (4060); Guidepost FIC B LLC (8609); Guidepost FIC C LLC (1518); Guidepost Goodyear LLC (1363); Guidepost Las Colinas LLC (9767); Guidepost Leawood LLC (3453); Guidepost Muirfield Village LLC (1889); Guidepost Richardson LLC (7111); Guidepost South Riding LLC (2403); Guidepost St Robert LLC (5136); Guidepost The Woodlands LLC (6101); Guidepost Walled Lake LLC (9118); HGE FIC D LLC (6499); HGE FIC E LLC (0056); HGE FIC F LLC (8861); HGE FIC G LLC (5500); HGE FIC H LLC (8817); HGE FIC I LLC (1138); HGE FIC K LLC (8558); HGE FIC L LLC (2052); HGE FIC M LLC (8912); HGE FIC N LLC (6774); HGE FIC O LLC (4678); HGE FIC P LLC (1477); HGE FIC Q LLC (3122); HGE FIC R LLC (9661); LePort Emeryville LLC (7324); AltSchool II LLC (0403). The Debtors' mailing address is 1321 Upland Dr. PMB 20442, Houston, Texas 77043.

Upon the motion (the “**Motion**”)<sup>2</sup> of Higher Ground Education, Inc. and its affiliated debtors, as debtors and debtors in possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”), for entry of an order (this “**Order**”) pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedures (the “**Bankruptcy Rules**”), (a) approving the Settlement, and (b) granting related relief, including the lifting of the automatic stay for the limited purpose of obtaining approval of the proposed settlement, all as is more fully described in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein under 28 U.S.C. §§ 157 and 1334; and this Court having determined that this is a core proceeding under 28 U.S.C. § 157(b)(2); and this Court having determined that venue of this proceeding in this District is proper under 28 U.S.C. §§ 1408 and 1409; and this Court having determined that the Debtors’ notice of the Motion and opportunity for a hearing were adequate and appropriate under the circumstances and no other notice need be provided; and this Court having reviewed the Motion and the McCarthy Declaration; and this Court having found and determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and this Court having determined that the relief sought in the Motion is in the best interests of the Debtors’ estates, their creditors, and other parties in interest; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is

**HEREBY ORDERED THAT:**

1. The Motion is granted as set forth herein.
2. The Settlement is hereby approved in all respects in accordance with Bankruptcy Rule 9019 and Bankruptcy Code section 105(a), including the releases contained therein.

---

<sup>2</sup> Capitalized terms used but not otherwise defined here shall have the meanings scribed to such terms in the Motion.

3. The automatic stay imposed by section 362 of the Bankruptcy Code be lifted and/or modified so that the parties to the Action can file a consent petition to settle the claims thereto.

4. The Settlement shall be effective upon approval in the trial court (such date, the “**Effective Date**”).

5. Once approval is obtained from the trial court of the Action, all required settlement documents are executed and returned, and all required tax identification documents are provided, Insurance Provider will fund the settlement in the amount of \$100,000.00.

6. Upon receipt of the Settlement Payment and approval of the trial court, the parties to the Action shall file a stipulated notice of dismissal with prejudice of Plaintiffs’ claims against the defendants in the Action on the appropriate dockets.

7. The parties are authorized to enter into, perform, execute, and deliver all documents, and take all actions, necessary to immediately continue and fully implement the Settlement in accordance with the terms, conditions, agreements, and releases set forth or provided for therein, all of which are approved.

8. The Debtors’ entry into the Settlement is an exercise of the Debtors’ reasonable business judgment.

9. Notice of the Motion as provided therein shall be deemed good and sufficient notice of (a) such Motion; (b) the terms and conditions of the Settlement; and (c) the hearing to approve the Settlement Agreement, and that the requirements of Bankruptcy Rules 2002 and 6004(a), and the Local Rules, are satisfied by such notice.

10. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.



11. The Court retains jurisdiction with respect to all matters arising from or related to the implementation of this Order.

**### END OF ORDER ###**

Submitted by:

Holland N. O'Neil (TX 14864700)  
**FOLEY & LARDNER LLP**  
2021 McKinney Avenue, Suite 1600  
Dallas, TX 75201  
Telephone: (214) 999-3000  
Facsimile: (214) 999-4667  
honeil@foley.com

-and-

Timothy C. Mohan (admitted *pro hac vice*)  
**FOLEY & LARDNER LLP**  
1144 15th Street, Suite 2200  
Denver, CO 80202  
Telephone: (720) 437-2000  
Facsimile: (720) 437-2200  
tmohan@foley.com

-and-

Nora J. McGuffey (TX 24121000)  
Quynh-Nhu Truong (TX 24137253)  
**FOLEY & LARDNER LLP**  
1000 Louisiana Street, Suite 2000  
Houston, TX 77002  
Telephone: (713) 276-5500  
Facsimile: (713) 276-5555  
nora.mcguffey@foley.com  
qtruong@foley.com

**PROPOSED COUNSEL TO DEBTORS  
AND DEBTORS IN POSSESSION**

## **Exhibit B**

Holland N. O'Neil (TX 14864700)  
Thomas C. Scannell (TX 24070559)  
**FOLEY & LARDNER LLP**  
2021 McKinney Avenue, Suite 1600  
Dallas, TX 75201  
Telephone: (214) 999-3000  
Facsimile: (214) 999-4667  
honeil@foley.com  
tscannell@foley.com

Timothy C. Mohan  
(admitted *pro hac vice*)  
**FOLEY & LARDNER LLP**  
1144 15th Street, Ste. 2200  
Denver, CO 80202  
Telephone: (720) 437-2000  
Facsimile: (720) 437-2200  
tmohan@foley.com

Nora J. McGuffey (TX 24121000)  
Quynh-Nhu Truong (TX 24137253)  
**FOLEY & LARDNER LLP**  
1000 Louisiana Street, Suite 2000  
Houston, TX 77002  
Telephone: (713) 276-5500  
Facsimile: (713) 276-5555  
nora.mcguffey@foley.com  
qtruong@foley.com

**PROPOSED COUNSEL TO  
DEBTORS AND  
DEBTORS IN POSSESSION**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

---

In re:

Higher Ground Education, Inc., *et al.*,<sup>1</sup>

Debtor.

§  
§  
§  
§  
§  
§

Chapter 11

Case No.: 25-80121-11 (MVL)

(Jointly Administered)

---

**DECLARATION OF JONATHAN MCCARTHY  
IN SUPPORT OF THE DEBTORS' 9019 MOTION**

---

---

<sup>1</sup> The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's federal identification number, are: Higher Ground Education Inc. (7265); Guidepost A LLC (8540); Prepared Montessorian LLC (6181); Terra Firma Services LLC (6999); Guidepost Birmingham LLC (2397); Guidepost Bradley Hills LLC (2058); Guidepost Branchburg LLC (0494); Guidepost Carmel LLC (4060); Guidepost FIC B LLC (8609); Guidepost FIC C LLC (1518); Guidepost Goodyear LLC (1363); Guidepost Las Colinas LLC (9767); Guidepost Leawood LLC (3453); Guidepost Muirfield Village LLC (1889); Guidepost Richardson LLC (7111); Guidepost South Riding LLC (2403); Guidepost St Robert LLC (5136); Guidepost The Woodlands LLC (6101); Guidepost Walled Lake LLC (9118); HGE FIC D LLC (6499); HGE FIC E LLC (0056); HGE FIC F LLC (8861); HGE FIC G LLC (5500); HGE FIC H LLC (8817); HGE FIC I LLC (1138); HGE FIC K LLC (8558); HGE FIC L LLC (2052); HGE FIC M LLC (8912); HGE FIC N LLC (6774); HGE FIC O LLC (4678); HGE FIC P LLC (1477); HGE FIC Q LLC (3122); HGE FIC R LLC (9661); LePort Emeryville LLC (7324); AltSchool II LLC (0403). The Debtors' mailing address is 1321 Upland Dr. PMB 20442, Houston, Texas 77043.

1. I am the Interim President and Secretary of the debtor and debtor in possession Higher Ground Education, Inc. (“**HGE**” together with its affiliates, the “**Debtors**”) in the above-captioned chapter 11 cases (the “**Chapter 11 Cases**”). I was appointed to my role by the sole independent board member of the HGE Board of Directors (the “**Board**”), Marc D. Kirshbaum following the resignation of the Debtors’ officers. Prior to this role, I served, and continue to serve, as a director on the Board and have been an HGE director since September 2020.

2. I submit this declaration (the “**Declaration**”) in support of the *Debtors’ Motion for Entry of an Order (I) Approving a Settlement Agreement with Plaintiffs in Certain Litigation Pursuant to Federal Rule of Bankruptcy Procedure 9019 and (II) Granting Related Relief* (the “**9019 Motion**”), filed contemporaneously herewith.

3. The statements in this Declaration are, except where specifically noted, based on my personal knowledge or opinion, and/or on information that I have received from the Debtors’ advisors. If I were called upon to testify, I could and would competently testify to the facts set forth herein on that basis. I am authorized to submit this Declaration on behalf of the Debtors.

### **The Settlement**

4. I have reviewed the 9019 Motion and the Settlement, and I understand and agree with the facts as set forth therein, and with the relief being sought by the 9019 Motion. Plaintiffs’ minor child attend Guidepost Marietta and the child was injured on Guidepost Marietta’s playground. It is my understanding that as a result of the injury, Plaintiffs filed the Action on July 24, 2024 seeking, among other things, actual, general, special, compensatory, economic, punitive, and other allowable damages against the defendants to the Action.

5. As the Action was covered under the Debtors’ insurance policy HHN 8598848-10 (the “**Insurance Policy**”) with Berkley Human Services (the “**Insurance Provider**”), the Debtors

tendered the Action to the Insurance Provider. The Insurance Provider assumed the defense of the Action for the Debtors and the other named defendant. Throughout the Action, the parties exchanged written discovery, produced documents, and obtained materials from nonparties and held a mediation on March 31, 2025 (the “**Mediation**”). While the Mediation was not successful, the parties continued to negotiate a settlement and on June 20, 2025, the parties agreed to the Settlement. The Settlement provides for the payment of \$100,000 from the Insurance Provider to fund the settlement on conditions approved by the trial court in the Action (the “**Settlement Payment**”). I understand that because the Action involves injuries to a minor, Georgia law requires the trial court to approve of the settlement, and thus, relief from the automatic stay must be obtained from the Court.

6. I believe, in consultation with the Debtors’ advisors, that entry into the Settlement is in the best interests of the Debtors’ estates and will inure to the benefit of the Debtors’ stakeholders. The alternative to a negotiated resolution would require full prosecution of the underlying claims. Although I believe that the Plaintiff Debtors may be able to prevail in the Action, success is uncertain and, in any event, such litigation could take years to resolve. In contrast, the Settlement provides for the payment of the Settlement Payment by the Insurance Provider under the Insurance Policy in exchange for a complete release of all claims by the Plaintiffs. The Settlement also provides for the immediate resolution of the Action, with the Settlement Payment being made by the Insurance Provider and not from the Debtors’ assets. Further, the Settlement provides an ultimate resolution for the Plaintiffs and their minor child – bringing an end to the Action and allowing all parties to move forward.

7. Accordingly, I believe that consummation of the Settlement represents a sound exercise of the Debtors' business judgment, is in the best interests of the Debtors' estates, and should be approved.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

DATED: July 24, 2025

/s/ Jonathan McCarthy  
Jonathan McCarthy