


Form PTO-1595 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005)		RECORDATION FORM COVER SHEET PATENTS ONLY		U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office	
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To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.					
1. Name of conveying party(ies): New Course Education, Inc.  Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		2. Name and address of receiving party(ies) Name: <u>Capital Analytics, Inc.</u> Internal Address: _____ _____ Street Address: <u>1812 Chapel Hill Road</u> _____ City: <u>Durham</u> State: <u>North Carolina</u> Zip: <u>27707</u>  Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
3. Nature of conveyance: <input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input checked="" type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other Termination of Security Interest Execution Date: <u>January 6, 2004</u>					
4. Application number(s) or patent number(s): If this document is being filed together with a new application, the execution date of the application is: _____  A. Patent Application No.(s) <u>09/837,076 and 60/443,951</u>		B. Patent No.(s)   Additional number(s) attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
5. Name and address of party to whom correspondence concerning document should be mailed: Name: <u>J. Christopher Lynch, Esq.</u> Internal Address: <u>Wyrlick Robbins Yates &amp; Ponton LLP</u> _____ _____ Street Address: <u>4101 Lake Boone Trall, Suite 300</u> _____ City: <u>Raleigh</u> State: <u>NC</u> Zip: <u>27607</u>		6. Total number of applications and patents involved: <u>2</u>		7. Total fee (37 CFR 3.41) ..... \$80.00 <input checked="" type="checkbox"/> Enclosed -Credit Card Payment Form Attached <input type="checkbox"/> Authorized to be charged to deposit account	
		8. Deposit account number: _____ _____ (Attach duplicate copy of this page if paying by deposit account)			
DO NOT USE THIS SPACE					
9. Statement and signature. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.  <u>J. Christopher Lynch</u> Name of Person Signing  Signature: <u></u> Date: <u>1/16/04</u>  Total number of pages including cover sheet, attachments, and document: <u>16</u>					

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patent & Trademarks, Box Assignments  
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OP \$80.00 09837076

## LOAN AND SECURITY AGREEMENT

THIS LOAN AND SECURITY AGREEMENT (this "Agreement"), dated as of January 6, 2004 (the "Effective Date"), is by and between New Course Education, Inc., a North Carolina corporation (the "Borrower"), and Capital Analytics, Inc., a Delaware corporation (the "Lender").

### RECITALS

WHEREAS, to finance operations of the Borrower, the Lender has agreed, subject to the terms and conditions of this Agreement, to extend a secured loan to the Borrower in an aggregate original principal amount of up to One Hundred Thousand Dollars (\$100,000) (the "Loan");

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows.

### SECTION 1

#### Certain Definitions and Accounting Matters.

1.01 Certain Defined Terms. As used herein, the following terms have the meanings set forth below (all terms defined in this Section 1.01 or in other provisions of this Agreement in the singular to have the same meanings when used in the plural and vice versa);

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly controls, or is under common control with, or is controlled by, the Borrower. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") shall mean possession, directly or indirectly, of the power to direct or cause the direction of management or policies (whether through the ownership of securities or partnership or the ownership interests, by contract or otherwise).

"Bankruptcy Code" shall mean the Bankruptcy Reform Act of 1978, as amended from time to time (codified at 11 U.S.C. §101 et seq.).

"Board" shall mean the Board of Directors of the Borrower.

"Borrower" shall have the meaning provided in the heading hereof.

"Business Day" shall mean any day excluding Saturday, Sunday, which is a legal holiday under the laws of the State of Delaware and any day on which a bank located in the State of Delaware is authorized or permitted to close for business.

"Closing Dates" shall mean the First Tranche Closing Date and the Second Tranche Closing Date.

"Code" means the Uniform Commercial Code as in effect, from time to time, in the State of North Carolina.

"Collateral" shall mean all property of Borrower, whether presently existing or hereafter created, written, produced, developed, acquired and/or arising, of every nature, kind and description, now or at any time hereafter owned by or in the custody or possession, actual or constructive, of Borrower, wherever located and that which is temporarily out of its custody or possession or in transit, including, but not limited to (a) all now existing and hereafter acquired accounts, account receivables, choses in action, chattel paper (including tangible and electronic chattel paper), instruments (including promissory notes), bills, bills-of-lading, acceptances, documents, charters or other contracts involving the hire of a vessel, lottery winnings, general intangibles (including payment intangibles), investment property and other financial assets, commodity contracts and rights, commodity accounts, money and other cash proceeds, non-cash proceeds, deposit accounts, commercial tort claims, letter-of-credits, letter-of-credit rights, rights to payment for money or funds advanced or sold, other forms of obligations and rights to payment of any nature now or hereafter at any time owing to the Borrower, rights pursuant to a commitment, rights under leases, lease contracts and/or leasehold interests and the proceeds of Borrower's rights with respect to any of the foregoing and of its goods or services represented by any of the foregoing property or property rights, whether or not delivered or returned by customers and all rights as an unpaid vendor or lienor, including rights of stoppage in transit and of recovering possession by proceedings (including replevin and reclamation), together with all customer lists, books and records, ledgers, account cards, and other records (including those stored on computer or electronic media), whether now in existence or hereafter created, relating to any of the foregoing; (b) all now existing and hereafter acquired goods, including, without limitation, fixtures, equipment and inventory; (c) all now and hereafter existing guarantees and other supporting obligations, together with the security therefor; (d) all intellectual property rights of Borrower in all its forms, including without limitation (i) all rights, title and interest (including rights acquired pursuant to a license or otherwise) in and to all trademarks, service marks, designs, logos, indicia, tradenames, trade dress, corporate names, company names, business names, fictitious business names, trade styles and/or other source and/or business identifiers and applications pertaining thereto, all registrations that have been or may hereafter be issued or applied for thereon, all common law and other rights in and to the trademarks (the "Trademark Rights"), and all goodwill of the business symbolized by the Trademark Rights and associated therewith (the "Associated Goodwill"); (ii) all rights, title and interest (including rights acquired pursuant to a license or otherwise) in and to all patents and patent applications and rights and interests in patents and patent applications under any domestic or foreign law that are presently, or in the future may be, owned or held by Borrower and all patents and patent applications and rights, title and interests in patents and patent applications under any domestic or foreign law that are presently, or in the future may be, owned by Borrower, and all re-issues, divisions, continuations, renewals, extensions and continuations-in-part thereof (all of the foregoing being collectively referred to as the "Patents"); it being understood that the rights and interests included in the Collateral hereby shall include, without limitation, all rights and interests pursuant to licensing or other contracts in favor of Borrower pertaining to patent applications and patents presently or in the future owned or used by third parties but only to the extent permitted by such licensing or other contracts and, if not so permitted, only with the consent of such third parties; and (iii) all rights, title and interest (including rights acquired

pursuant to a license or otherwise) under copyright in various published and unpublished works of authorship including, without limitation, computer programs, computer data bases, other computer software, layouts, trade dress, drawings, designs, writings, and formulas owned by Borrower (collectively, the "Copyrights"), all copyright registrations issued to Borrower and applications for copyright registration that have been or may hereafter be issued or applied for thereon by Borrower (collectively, the "Copyright Registrations"), all common law and other rights in and to the Copyrights including all copyright licenses (but with respect to such copyright licenses, only to the extent permitted by such licensing arrangements) (the "Copyright Rights"), including the right to renew and extend such Copyright Registrations and Copyright Rights and to register works protectable by copyright and the right to sue for past, present and future infringements of the Copyrights and Copyright Rights; and (e) all now existing and hereafter existing accessions, products and proceeds, including, without limitation, insurance proceeds, of any and all of the foregoing property and/or property rights.

"Contractual Obligation" shall mean, as to any Person, any provision of any security issued by such Person or of any material agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.

"Default" shall mean an Event of Default or an event that, with notice or lapse of time or both, would become an Event of Default.

"Dollars" and "\$" shall mean dollars in lawful currency of the United States of America.

"Event of Default" shall have the meaning assigned thereto in Section 7 hereof.

"Extraordinary Event" shall mean (i) the sale, transfer, or other disposition of all or substantially all of the assets of the Borrower to, or a merger or consolidation of the Borrower into, an entity that is not controlled, directly or indirectly, by the shareholders of the Borrower prior to such transaction; or (ii) the liquidation, dissolution or winding up of the Borrower. "Control" shall mean ownership of more than 50% of the voting power of an entity.

"Financing Statement" shall have the meaning assigned thereto in the Code.

"First Tranche" shall have the meaning provided in Section 2.01(b) below.

"First Tranche Closing Date" shall mean the Effective Date of this Agreement.

"GAAP" shall mean generally accepted accounting principles as set forth in statements from Auditing Standards No. 69 issued by the Auditing Standards Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board that are applicable to the circumstances. Unless otherwise agreed, references to GAAP herein shall be to GAAP as in effect on the Closing Dates.

"Governmental Authority" shall mean any nation or government, any state or other political subdivision thereof, any entity exercising executive, legislative, judicial, regulatory or

administrative functions of or pertaining to government and any court or arbitrator having jurisdiction over the Borrower, any of its Subsidiaries or any of its properties.

"Indebtedness" shall mean, without duplication, with respect to a Person (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person as lessee under capital leases, (e) all obligations of such Person to reimburse any bank or other Person in respect of amounts payable under a banker's acceptance, (f) all redeemable preferred stock of such Person (in the event such Person is a corporation), (g) all obligations of such Person to reimburse any bank or other Person in respect of amounts paid or to be paid under a letter of credit or similar instrument, and (h) all Indebtedness of others secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person.

"Lender" shall have the meaning assigned thereto in the heading hereof.

"Lien" shall mean any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), other charge or security interest, or any preference, priority or other agreement or preferential arrangement of any kind or nature whatsoever.

"Loan" shall mean the term loans made by the Lender to the Borrower on the Closing Dates, in the aggregate original principal amount of up to One Hundred Thousand Dollars (\$100,000).

"Loan Documents" shall mean, collectively, this Agreement, the Notes and all other documents or instruments executed in connection with the transactions contemplated by this Agreement.

"Material Adverse Effect" shall mean a material adverse effect on (a) the business, operations, property, condition (financial or otherwise) or prospects of the Borrower on a consolidated basis, (b) the ability of the Borrower to perform its obligations under this Agreement or any other Loan Documents or (c) the validity or enforceability of (i) this Agreement or the Notes, or (ii) the rights or remedies of the Lender hereunder or thereunder.

"Maturity Date" shall mean the earlier of June 30, 2004, or the occurrence of an Extraordinary Event.

"Negotiable Collateral" means all of Borrower's present and future letters-of-credit and letter-of-credit rights of which it is a beneficiary, instruments (including promissory notes), drafts, securities, documents of title and chattel paper (including electronic chattel paper), and Borrower's books and records relating to any of the foregoing.

"Notes" shall mean the secured promissory notes dated of even date herewith or the Second Tranche Closing Date by the Borrower payable to the order of the Lender in an aggregate

principal amount equal to the amount advanced on such Closing Date and substantially in the form attached hereto as Exhibit "B", and any promissory notes delivered in substitution or exchange therefor, in each case as the same shall be modified and supplemented and in effect from time to time.

"Obligations" shall mean, individually and collectively, (a) all principal and interest (including any interest that accrues after the commencement of any case, proceeding or other action relating to the bankruptcy, insolvency or reorganization of the Borrower) on the Loan, (b) all other obligations and amounts payable by the Borrower hereunder or under any other Loan Document, and (c) any amendments, restatements, renewals, extensions or modifications of any of the foregoing.

"Permitted Liens" shall mean the following:

(a) Liens existing on the Effective Date or arising under this Agreement or any Loan Documents;

(b) Liens for taxes, fees, assessments or other governmental charges or levies, either not delinquent or being contested in good faith;

(c) Purchase money Liens (i) on equipment acquired or held by Borrower or any Subsidiary incurred for financing the acquisition of such equipment; or (ii) existing on equipment when acquired, if the Lien is confined to the property and improvements and proceeds of the equipment;

(d) Licenses or sublicenses granted in the ordinary course of Borrower's business and any interest or title of a licensor or under any license or sublicense, if the licenses and sublicenses permit granting any Lender a security interest;

(e) Leases or subleases granted in the ordinary course of Borrower's business;

(f) Liens incurred in the extension, renewal or refinancing of the indebtedness secured by Liens described in (a) through (c) above; however, any extension, renewal or replacement Lien must be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness may not increase.

"Person" shall mean any individual, corporation, company, voluntary association, partnership, joint venture, limited liability company, trust, unincorporated association or government (or any agency, instrumentality or political subdivision thereof).

"Requirements of Law" shall mean as to any Person, the certificate of incorporation and by-laws or other organizational or governing documents of such Person, and any law, treaty, rule or regulations or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Second Tranche" shall have the meaning provided in Section 2.01(c) below.

"Second Tranche Closing Date" shall mean January 30, 2004, or such other date as the Borrower and Lender mutually agree.

"Subsidiary" shall mean, as to any Person, a corporation, partnership or other entity of which shares of stock or other ownership interests having ordinary voting power (other than stock or such other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the board of directors or other managers of such corporation, partnership or other entity are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person.

1.02 Accounting Terms and Determinations. Except as otherwise expressly provided herein, all accounting terms used herein shall be interpreted, and all financial statements and certificates and reports as to financial matters required to be delivered to the Lender hereunder shall be prepared, in accordance with GAAP.

## SECTION 2

### Term Loan, Note and Prepayments.

#### 2.01 Term Loan.

(a) The Lender agree, subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of the Borrower contained herein, to make the Loan to the Borrower in two installments. Amounts borrowed under this Section 2.01 and repaid may not be reborrowed.

(b) The first installment of the Loan, totaling Twenty-Nine Thousand Dollars (\$29,000.00) (the "First Tranche") shall be advanced by the Lender on the First Tranche Closing Date.

(c) The second installment of the Loan, in such amount as may be agreed upon by the Borrower and the Lender, not to exceed Seventy-One Thousand Dollars (\$71,000) (the "Second Tranche") shall be advanced by the Lender on the Second Tranche Closing Date.

#### 2.02 Note.

(a) The Loan shall be evidenced by Notes. The Notes shall (i) be dated as of the First Tranche Closing Date or the Second Tranche Closing Date, as the case may be, (ii) be stated to mature on the Maturity Date and (iii) provide for the payment of interest in accordance with Section 2.03.

(b) The date and amount of the Loan, and each payment made on account of the principal thereof, shall be recorded by the Lender on their respective books and, prior to any transfer of their respective Notes, endorsed by the Lender on a schedule to be attached to the

Note or any continuation thereof; provided, that the failure of any Lender to make any such recordation or endorsement shall not affect the obligations of the Borrower to make a payment when due of any amount owing hereunder or under any of the Notes in respect of the Loan.

2.03 Interest Rate. The Loan shall bear simple interest on the outstanding principal amount thereof at a rate per annum equal to six percent (6%).

2.04 Scheduled Repayment of Principal; Payment of Interest. Subject to Section 2.07, the Borrower shall repay each of the Notes constituting the Loan in one installment of principal plus accrued interest on the Maturity Date.

2.05 Prepayments. Each Note may be individually prepaid (with interest accrued to the date of prepayment) at any time without premium or penalty. Any amounts prepaid shall be applied first, to any accrued and unpaid interest on the Note and second, to reduce the outstanding principal balance of the Note until paid in full. Principal amounts prepaid hereunder may not be reborrowed.

### SECTION 3

#### Payments and Computations.

##### 3.01 General Payment Terms.

(a) Except to the extent otherwise provided herein, all payments of principal, interest and other amounts to be made by the Borrower under this Agreement and the Notes shall be made in Dollars, in immediately available funds, without deduction, set-off or counterclaim, to the Lender not later than 1:00 p.m., Eastern Standard Time, on the date on which such payment shall become due (each such payment made after such time on such due date to be deemed to have been made on the next succeeding Business Day).

(b) Except to the extent otherwise expressly provided herein, if the due date of any payment under this Agreement or the Notes would otherwise fall on a day that is not a Business Day, such date shall be extended to the next succeeding Business Day, and interest shall be payable for any principal so extended for the period of such extension.

3.02 Computations. Interest on the Loan shall be computed on the basis of a 365-day year for the actual days elapsed (including the first day but excluding the last day) occurring in the period for which payable.



## SECTION 4

Conditions Precedent.

4.01 Delivered Documents. The effectiveness of this Agreement is subject to the Lender having received the following items, each of which shall be reasonably satisfactory to each of the Lender in form and substance:

(a) Loan Documents. The Lender shall have received, executed and delivered by a duly authorized officer of the Borrower: (i) this Agreement; (ii) a copy of a satisfactory Form UCC-1 filed in the office of the North Carolina Secretary of State; and (iii) the applicable Note, conforming to the requirements hereof.

(b) Other Documents. The Lender shall have received such other documents as the Lender may reasonably request.

## SECTION 5

Security Interest.

5.01 Creation of Security Interest. Borrower grants and pledges to Lender a continuing security interest in all presently existing and hereafter acquired or arising Collateral to secure the prompt repayment of any and all Obligations and to secure the prompt performance by Borrower of each of its covenants, duties and obligations under the Loan Documents. Except for the Permitted Liens, such security interest constitutes a valid, first priority security interest in the presently existing Collateral, and will constitute a valid, first priority security interest in Collateral acquired or arising after the date hereof.

5.02 Delivery of Additional Documentation Required. Borrower shall from time to time execute and deliver to Lender, at the request of Lender, all Negotiable Collateral, all Financing Statements and other documents and records that Lender may request, in form and substance reasonably satisfactory to Lender and its counsel, to perfect and continue perfected Lender's security interests in the Collateral and in order to fully consummate all of the transactions contemplated under the Loan Documents. If Borrower has executed and delivered to Lender a separate security agreement or agreements in connection with any or all of the Obligations, that security agreement or those security agreements and the security interests created therein shall be in addition to and not in substitution of this Agreement and the security interests created hereby, and this Agreement shall be in addition to and not in substitution of the other security agreement or agreements and the security interests created thereby. In all cases this Agreement and the aforesaid security agreement or agreements, as well as all other evidences or records of any and all of the Obligations and agreements of Borrower, Lender and/or other persons who may be obligated on any of the Obligations, shall be applied and enforced in harmony with and in conjunction with each other to the end that Lender realizes fully upon its rights and remedies in each and the Liens created by each; and, to the extent conflicts exist between this Agreement and the other security agreements and/or records, they shall be

resolved in favor of Lender for the purpose of achieving the full realization of Lender's rights and remedies thereunder and the Liens as aforesaid.

5.03 Power of Attorney. Borrower does hereby irrevocably constitute and appoint Lender during the term of this Agreement its true and lawful attorney with full power of substitution, for it and in its name, place and stead, to execute, deliver and/or file such agreements, documents, notices, statements and records, to include, without limitation, Financing Statements, and to do or undertake such other acts as Lender, in its sole discretion, deems necessary or advisable to effect the terms and conditions of this Agreement, the other Loan Documents and to otherwise protect the security of the security interest in the Collateral. The foregoing appointment is and the same shall be coupled with an interest in favor of Lender.

5.04 Right to Inspect. Lender (through any of its officers, employees, agents or other persons designated by Lender) shall have the right, upon reasonable prior notice, from time to time during Borrower's usual business hours, to inspect Borrower's books and to make copies thereof and to inspect, check, test and appraise the Collateral in order to verify Borrower's financial condition or the amount, condition of, or any other matter relating to, the Collateral. Borrower shall permit representatives of Lender to discuss the business, operations, properties, and financial and other conditions of Borrower with its officers, board members, managers, members, partners, employees, agents, independent certified public accountants and others, as applicable. Notwithstanding the foregoing provisions of this Section 5.04, Lender shall not be required to give prior notice or limit its inspections to normal business hours if it deems an emergency or other extraordinary situation to exist with respect to the Collateral, Borrower's books and/or its other rights hereunder.

## SECTION 6

### Representations and Warranties.

The Borrower represents and warrants to the Lender that throughout the term of this Agreement:

6.01 Existence; Compliance with Law. The Borrower (i) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, (ii) has the corporate power and authority to own and operate its property, to lease the property it operates as lessee and to carry on its business as now being or as proposed to be conducted, (iii) is duly qualified to do business and is in good standing under the laws of each jurisdiction in which the nature of the business conducted by it makes such qualification necessary and where failure so to qualify would be reasonably likely (either individually or in the aggregate) to have a Material Adverse Effect, and (iv) is in compliance in all material respects with all Requirements of Law.

### 6.02 Corporate Power; Authorization; Enforceable Obligations.

(a) The Borrower has the corporate power and authority to make, deliver and perform this Agreement and the other Loan Documents, and has taken all necessary corporate action to

authorize (i) the Loan on the terms and conditions of this Agreement and the other Loan Documents, and (ii) the execution, delivery and performance of this Agreement and the other Loan Documents.

(b) No consent or authorization of, approval by, notice to, filing with or other act by or in respect of, any Governmental Authority or any other Person is required in connection with the Loan hereunder or with the execution, delivery, performance, validity or enforceability of this Agreement or the other Loan Documents which has not otherwise been taken or received. The Borrower has all material licenses, franchises, certificates, permits and other authorizations from any Governmental Authority that are necessary in any material respect for the ownership, maintenance and operation of its properties and assets, and Borrower is not in violation of any thereof in any respect which could reasonably be likely to have a Material Adverse Effect.

(c) The Loan Documents have been duly and validly executed and delivered by the Borrower and constitute the legal, valid and binding obligations of the Borrower, enforceable against the Borrower in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

6.03 No Legal Bar. The execution, delivery and performance of the Loan Documents, the borrowing of the Loan hereunder and the use of the proceeds thereof will not violate any Requirements of Law or Contractual Obligation of the Borrower or any Subsidiary of the Borrower and will not result in, or require the creation or imposition of, any Lien on any of its or their respective properties or revenues pursuant to any such Requirements of Law or Contractual Obligation.

6.04 No Default. Except as set forth on Exhibit A, neither the Borrower nor, if applicable, any Subsidiary is in default under or with respect to any of its Contractual Obligations in any respect which could reasonably be expected to have a Material Adverse Effect. No Default or Event of Default has occurred and is continuing.

6.05 Ownership of Property. Each of the Borrower and, if applicable, its Subsidiaries has title to its properties sufficient for the conduct of its business.

6.06 Chief Executive Office. The executive office of the Borrower and the location where the Borrower keeps its books and records is located at 1812 Chapel Hill Road, Durham, North Carolina 27707.

6.07 Taxes. Each of the Borrower and, if applicable, its Subsidiaries has filed all Federal income tax returns and all other material tax returns that are required to be filed by it and has paid all taxes due pursuant to such returns or pursuant to any assessment received by it, except for any such taxes or assessments that are being appropriately contested in good faith by appropriate proceedings and with respect to which adequate reserves in conformity with GAAP have been provided. No tax Lien has been filed, and to the knowledge of the Borrower, no claim is being asserted, with respect to any such tax or assessment.

## SECTION 7

Events of Default.

Each of the following events shall constitute an event of default (an "Event of Default") hereunder:

- (a) the Borrower shall default in the payment of any principal or interest on the Loan, any fee or other amount payable by it hereunder with respect to the Loan or under any of the Notes when due, and such default shall have continued unremedied for five (5) Business Days; or
- (b) any representation, warranty or certification made or deemed made herein by the Borrower, or any certificate furnished to the Lender pursuant to the provisions hereof or thereof, shall prove to have been false or misleading as of the time made or furnished in any material respect except to the extent such representation, warranty or certification was based on information provided to the Borrower by any of the Lender in connection with this Agreement or any of the other Loan Documents or otherwise relates to events, circumstances or conditions in existence or arising prior to the date on which the transactions contemplated by this Agreement or any of the other Loan Documents were consummated; or
- (c) the Borrower shall default in the performance of any of its material obligations under this Agreement (subject to the remedy period referred to in Section 7(a) above); or
- (d) any event or occurrence that results in a Material Adverse Effect; or
- (e) a proceeding or case shall be commenced, without the application or consent of the Borrower, as applicable, in any court of competent jurisdiction, seeking (i) the Borrower's reorganization, liquidation, dissolution, arrangement or winding-up, or the composition or readjustment of any of their respective debts, (ii) the appointment of a receiver, custodian, trustee, examiner, liquidator or the like of the Borrower, or of all or any substantial part of their respective properties, or (iii) similar relief in respect of the Borrower under any law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or readjustment of debts and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) or more days; or an order for relief against the Borrower shall be entered in an involuntary case under the Bankruptcy Code.

## SECTION 8

### Remedies Upon Default.

Upon the occurrence of one or more Events of Default, other than those referred to in Section 7(e) above, the Lender may:

(a) immediately declare the principal amount of the Loan then outstanding to be immediately due and payable, together with all accrued but unpaid interest thereon and fees and expenses accruing under this Agreement; provided, however, that upon the occurrence of an Event of Default referred to in Sections 7(e), such amounts shall immediately and automatically become due and payable without any further action by and Person. Upon such declaration or such automatic acceleration, the balance then outstanding on the Notes shall become immediately due and payable, without presentment, demand, protest or other formalities of any kind, all of which are hereby expressly waived by the Borrower. The Lender shall be entitled to specific performance of all agreements of the Borrower contained in this Agreement; and/or

(b) do any acts Lender considers necessary or reasonable to protect the Lender's security interests in the Collateral or sell the Collateral.

## SECTION 9

### Miscellaneous.

9.01 Waiver. No failure on the part of the Lender to exercise and no delay in exercising, and no course of dealing with respect to, any right, power or privilege under this Agreement or any of the other Loan Documents shall operate as a waiver hereof or thereof, nor shall any single or partial exercise of any right, power or privilege under this Agreement or any of the other Loan Documents preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The remedies provided herein are cumulative and not exclusive of any remedies provided by law.

9.02 Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered in person, by facsimile, by registered or certified mail (postage prepaid, return receipt requested), or by any courier or other service providing evidence of delivery to the respective parties as set forth below:

(a) If to Borrower, to:

New Course Education, Inc.  
1812 Chapel Hill Road  
Durham, NC 27707  
Attn: Chief Executive Officer  
Fax: 919-403-3774

(b) if to the Lender, to:

Capital Analytics, Inc.  
1812 Chapel Hill Road  
Durham, NC 27707  
Attn: Chief Executive Officer  
Fax: 919-403-3774

or to such other address (or facsimile number, if applicable) as the Person to whom notice is given may have previously furnished to the others in writing in the manner set forth above (provided that notice of any change of address or facsimile number shall be effective only upon receipt thereof).

9.03 Amendments. Except as otherwise expressly provided in this Agreement, any provision of this Agreement may be modified or supplemented only by an instrument in writing signed by the Borrower and the Lender.

9.04 Benefit of Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

9.05 Assignments; Participations. The Borrower may not assign any of its rights or obligations hereunder or under any of the Notes without the prior consent of the Lender holding a majority in interest in the then outstanding principal amount of the Notes. The Lender may assign or transfer all or any of its rights or obligations under this Agreement and the other Loan Documents to any third party at any time without the prior written consent of the Borrower, provided prior written notice thereof is given by Lender to the Borrower.

9.06 Captions. The captions and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.

9.07 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same Agreement.


9.08 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, regardless of the laws that might otherwise govern under applicable principles of conflicts of laws thereof.

**[SIGNATURE PAGE TO FOLLOW]**

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed and delivered as of the day and year first above written.


BORROWER:

New Course Education, Inc.

By:   
Name: Gene Pease  
Title: Chief Executive Officer

LENDER:

Capital Analytics, Inc.

By:   
Name: Gene Pease  
Title: Chief Executive Officer