

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this “Agreement”), is entered into this \_\_\_ day of September, 2011, by and among (a) BORDERS GROUP, INC., a corporation formed under the laws of the State of Michigan (“Parent”), and BORDERS, INC., a corporation formed under the laws of the State of Colorado (the “Company” and, together with Parent, the “Sellers,” and each, individually, a “Seller”), and (b) BARNES & NOBLE, INC., a corporation formed under the laws of the State of Delaware (the “Buyer”). The Sellers and the Buyer are referred to herein individually as a “Party” and collectively as the “Parties.”

### RECITALS

WHEREAS, the Sellers and certain of their domestic subsidiaries filed voluntary petitions for relief (such domestic subsidiaries, together with the Sellers, the “Seller Group”) under Chapter 11 of Title 11 of the United States Code (the “Bankruptcy Code”) on February 16, 2011 in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), and such bankruptcy cases are being jointly administered under Case No. 11-10614 (MG) and are hereinafter referred to collectively as the “Cases,” and

WHEREAS, each of the Sellers wishes to sell, transfer, convey, assign and deliver to the Buyer, and the Buyer wishes to purchase, assume and acquire, in accordance with Section 363 and the other applicable provisions of the Bankruptcy Code, the Assets (as hereinafter defined) upon the terms and subject to the conditions set forth in this Agreement; and

WHEREAS, subject to the Bankruptcy Court’s entry of the Sale Order (as hereinafter defined), the Buyer shall purchase from the Sellers, and the Sellers shall sell, transfer, convey, assign and deliver to the Buyer, the Assets, upon the terms and subject to the conditions set forth in this Agreement.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties mutually agree as follows:

#### ARTICLE 1

##### PURCHASE AND SALE OF ASSETS

1.1 Defined Terms. All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings set forth for such terms in Article 13.

1.2 Purchase and Sale. Subject to the terms and conditions set forth in this Agreement, the Sellers hereby agree that at the Closing, they shall, and shall cause the other members of the Seller Group to, sell, transfer, convey and assign to the Buyer and the Buyer shall purchase, assume and acquire from the Seller Group, all right, title and interest of the Seller Group in, to and under the following (collectively, the “Assets”), free and clear of all Liens and interests (other than rights under the Specified Licenses and under the Terminated Licenses as such term is defined in Section 8.2(e)):

(a) All of the interests of the Seller Group in and to all U.S. federal, state and foreign trademarks, service marks, trade names, service names, brand names, all trade dress rights, logos and corporate names and general intangibles of a like nature, together with the goodwill associated with any

of the foregoing, and all applications, registrations and renewals thereof, registered in the name of the Seller Group, including the items set forth on Schedule 1.2(a) (the “Transferred Intellectual Property”);

(b) All of the interests of the Seller Group in and rights in respect of the following (to the extent owned and transferable by the Seller Group): the social media accounts set forth on Schedule 1.2(b), including related Internet pages, content and contact/subscriber lists, and any related social media assets;

(c) All claims (including any litigation or arbitration claims and any refunds and deposits), rights, rights of offset or causes of action or choses in action existing now or arising at any time in the future that the Seller Group or their Affiliates may have against, or from (to the extent an asset and not a Liability), any Person relating to the Assets (the “Transferred Claims”), including but not limited to the claims set forth on Schedule 1.2(c), but excluding the claims set forth in Section 1.3(f);

(d) The domain names set forth on Schedule 1.2(d) and any related domain names.

(e) The website content described in Schedule 1.2(e) (to the extent owned and transferable by Seller Group);

(f) The toll-free numbers set forth on Schedule 1.2(f);

(g) All Proprietary Rights in respect of or related to the Transferred Intellectual Property and other Assets, including those relating to the Customer List but excluding any Proprietary Rights in respect of or related to any Excluded Assets;

(h) All of the interests of the Seller Group in any software or source code used for the operation of or related to the websites owned and operated by the Seller Group (to the extent owned and transferable by the Seller Group); provided, however, that the parties acknowledge that such software and/or source code is not sufficient to operate any of the websites owned and operated by the Seller Group; and

(i) Subject to the terms of Section 7.5, the Customer List.

1.3 Excluded Assets. Notwithstanding anything to the contrary contained herein, expressly excluded from the Assets are all of the right, title and interest of the Seller Group in and to all items not expressly enumerated in Section 1.2, including but not limited to the following (collectively, the “Excluded Assets”):

(a) All claims (including any litigation or arbitration claims and any refunds and deposits), rights, rights of offset or causes of action of the Seller Group or their Affiliates other than Transferred Claims;

(b) All causes of action and claims that may be asserted against the Buyer and all rights of the Sellers under this Agreement or any Ancillary Agreement or any other agreements or instruments otherwise delivered in connection with this Agreement or any Ancillary Agreement;

(c) All of the interests of the Seller Group in any Legacy v.4 IP Addresses;

(d) All of the interests of the Seller Group in hardware, software or source code (other than any source code included in Section 1.2(h));

(e) All of the interests of the Seller Group in and to all Contracts (except to the extent necessary to transfer the Transferred Claims or to transfer the Proprietary Rights to be transferable under Section 1.2(g));

(f) The claims of the Seller Group against Next Jump and/or certain of its affiliates and any other named parties set forth in the matter captioned *Borders, Inc. and Borders Properties, Inc. v. Next Jump, Inc.* Adv. Proc. No. 11-02567 in the Bankruptcy Court; provided, however, the Buyer shall have the right to participate in the prosecution of any claims in equity for injunctive relief related to the Assets and no settlement or stipulation affecting the Assets shall be entered into without the prior written consent of the Buyer, not to be unreasonably withheld. For the avoidance of doubt, any claim whether or not related to the foregoing that first arises from and after the date of the Agreement shall constitute a Transferred Claim, unless otherwise mutually agreed. Seller Group will keep Buyer reasonably informed as to the status of such claim as it relates to the Buyer's rights described above; and

(g) All Avoidance Actions.

## ARTICLE 2

### PURCHASE PRICE AND PAYMENT

2.1 Purchase Price. The consideration to be paid by the Buyer for the sale of the Assets shall consist of Thirteen Million Nine Hundred Thousand Dollars (\$13,900,000.00) (the "Purchase Price"). At the Closing, the Purchase Price shall be paid to the Sellers by wire transfer of immediately available funds in accordance with instructions given by the Sellers to the Buyer.

#### 2.2 Assumed Obligations and Excluded Liabilities

(a) At the Closing, the Buyer shall assume and become responsible for no Liabilities relating to the Assets or otherwise, other than first arising after the Closing Date; provided, however, for the avoidance of doubt, that Liabilities asserted at any time (whether prior to or after the Closing Date) arising out of or in connection with obligations of the Seller Group first arising prior to the Closing Date are not assumed by the Buyer.

(b) Subject to Section 2.2(a), the Buyer shall not be subject to and shall not assume nor be liable for any Liabilities of any kind or nature, whether absolute, contingent, accrued, known or unknown, of the Seller Group (collectively, the "Excluded Liabilities"). All Liabilities of the Seller Group, including any Liabilities related to the Assets, shall be Excluded Liabilities and shall be and remain the Liabilities of the Seller Group, subject to Section 2.2(a).

2.3 Non-Assignable Assets. If any Asset is by its terms or by Applicable Law non-assignable or non-transferable, to the extent such terms are not superseded by the terms of the Sale Order, the Sellers shall use their reasonable best efforts to obtain, or cause to be obtained, on or prior to the Closing, any approvals or consents necessary to convey to the Buyer the benefit thereof. The Buyer shall cooperate with the Sellers in such manner as may be reasonably requested in connection therewith. In the event any consent or approval to an assignment contemplated hereby is not obtained on or prior to the Closing Date, the Sellers shall continue to use reasonable best efforts to obtain any such approval or consent after the Closing Date and the Sellers agree to enter into any appropriate and commercially reasonable arrangement to provide that the Buyer shall receive the Seller Group's interest in the benefits under any such Asset; *provided* that the Buyer shall undertake to pay or satisfy the corresponding liabilities for the enjoyment of such benefit to the extent the Buyer would have been responsible therefor if such consent or approval had been obtained.

2.4 Transfer Taxes. To the extent the transactions contemplated hereby are not exempt under Section 1146 of the Bankruptcy Code, the Buyer shall be liable for and pay any sales and transfer Taxes, filing fees, documentary fees or other Taxes, other than resulting income taxes, payable in connection with the purchase, sale or transfer of the Assets to the Buyer pursuant to this Agreement. The Buyer and the Sellers shall use reasonable best efforts to minimize the amount of all the foregoing Taxes and shall cooperate in providing each other with any appropriate resale exemption certifications, Tax clearance certificates and other similar documentation. The Party that is required by Applicable Law to make the filings, reports, or returns and to handle any audits or controversies with respect to any of the foregoing Taxes shall do so, and the other Party shall cooperate (and make reimbursement) with respect thereto as necessary.

2.5 Allocation of Purchase Price. No later than ninety (90) days after the Closing Date, the Buyer and the Sellers shall mutually agree upon a Tax allocation of the Purchase Price and other relevant items among the Assets in accordance with Section 1060 of the Tax Code and the regulations thereunder and any comparable provision of state or local law. Each of the Parties agrees that it or they shall file a statement (on IRS Form 8594 or other applicable form) setting forth such allocation with its or their federal and applicable state income Tax returns and shall also file such further information or take such further actions as may be necessary to comply with the Treasury Regulations that have been promulgated pursuant to Section 1060 of the Tax Code and similar applicable state laws and regulations.

2.6 Deposit. The Buyer shall, upon the execution of this Agreement, deposit into a segregated escrow account designated by the Sellers an amount equal to 10% of the Purchase Price (i.e., \$1,390,000.00) (the "Deposit"). If the Closing takes place as provided herein, then the Deposit shall be credited against the Purchase Price pursuant to Section 2.1 and paid to the Sellers at the Closing. If this Agreement is terminated in accordance with Article 10 for any reason other than pursuant to Section 10.1(d), then the Sellers shall promptly return the Deposit to the Buyer. If this Agreement is terminated pursuant to Section 10.1(d), the Deposit shall be retained by the Sellers.

### ARTICLE 3

#### CLOSING

3.1 Closing. Consummation of the transactions contemplated hereby (the "Closing") shall occur as soon as practicable on such date as is specified by the Buyer, but in any event not later than two (2) Business Days after the date the conditions to Closing set forth in this Agreement are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing), at the offices of Kasowitz, Benson, Torres & Friedman LLP, New York, New York, or at such time and place as the Buyer and the Sellers may otherwise agree. The date on which the Closing actually takes place is referred to in this Agreement as the "Closing Date."

3.2 Deliveries by the Sellers at Closing. At the Closing, the Sellers shall each execute, acknowledge and deliver to the Buyer the following (which events shall occur, each being deemed to have occurred simultaneously with the others):

(a) Trademark, trade name and domain name assignments and other intellectual property assignments in a form reasonably satisfactory to the Buyer and its counsel and the Sellers and their counsel, suitable for recording in the U.S Patent and Trademark Office, pursuant to which the Seller Group shall assign the Transferred Intellectual Property to the Buyer, as well as assignment documents for trademark and/or patent rights in other jurisdictions as reasonably requested by Buyer (the "IP Assignments");

(b) A duly executed Bill of Sale in a form reasonably satisfactory to the Buyer and its counsel and the Sellers and their counsel;

(c) [Reserved];

(d) A copy of the Sale Order;

(e) The officer's certificate described in Section 8.2(a) below;

(f) All other documents, certificates, instruments or writings, including the Ancillary Agreements, reasonably requested by the Buyer in connection herewith, including as necessary or appropriate to convey to the Buyer the Assets.

3.3 Deliveries by the Buyer at Closing. At the Closing, the Buyer shall execute, acknowledge and deliver to the Sellers the following (which events shall occur, each being deemed to have occurred simultaneously with the others):

(a) A duly executed Bill of Sale and the IP Assignments, if any, that call for a signature by the Buyer;

(b) A duly executed Assignment and Assumption Agreement;

(c) The Purchase Price to the Sellers by wire transfer in immediately available funds, net of the Deposit;

(d) A copy of the resolutions adopted by the Buyer's Board of Directors authorizing the transactions contemplated hereby and the consummation thereof, certified by a secretary or assistant secretary of the Buyer to be a true and correct copy;

(e) The officer's certificate described in Section 8.1(a) below;

(f) A certificate of incumbency as to those officers of the Buyer executing instruments in connection with this Agreement;

(g) The Specified Licenses duly executed by the Buyer and the applicable licensees; and

(h) All other documents, certificates, instruments or writings, including the Ancillary Agreements, reasonably requested by the Sellers in connection herewith.

3.4 [Reserved].

3.5 Subsequent Documentation; Further Assurances. The Buyer and the Sellers shall, at any time and from time to time after the Closing Date, upon the reasonable request of the other, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, all such further (a) assignments, transfers and conveyances as may be required for assigning, transferring, granting, conveying, recording and confirming the transactions contemplated hereby, including aiding and assisting the Buyer in collecting and reducing to possession any or all of the Assets and (b) documents and instruments as may be reasonably necessary for the further completion of any of the transactions contemplated hereby, including, without limitation, the Specified Licenses.

## ARTICLE 4

### REPRESENTATIONS AND WARRANTIES OF THE SELLERS

The Seller Group has delivered to Buyer and attached hereto certain disclosure schedules prepared by the Seller Group with numbered sections corresponding to the relevant sections in this Article 4 (the “Sellers’ Disclosure Schedules”), and any exception or qualification set forth in the Sellers’ Disclosure Schedules with respect to a particular representation or warranty contained in this Article 4 shall be deemed to be an exception or qualification with respect to such section of this Article 4. Where an exception or qualification would apply to more than one Section of the Sellers’ Disclosure Schedules, the Seller Group will cross-reference the exception or qualification in each section of the Sellers’ Disclosure Schedules where such reference is necessary to make the representations and warranties true and correct; provided, however, that in the absence of an explicit cross-reference such cross-reference will be deemed made into a different section of the Sellers’ Disclosure Schedules only to the extent that any exception or qualification made elsewhere in the Sellers’ Disclosure Schedules is disclosed in such a way as to make it reasonably apparent from the face of such disclosure that such exception or qualification is applicable to such other section of the Sellers’ Disclosure Schedules as it relates to this Article 4.

The Sellers, jointly and severally, represent that the following are true and correct as of the date hereof and shall be true and correct at the date of the Closing after giving effect to the Sale Order:

4.1 Organization and Power. Each Seller (a) is a corporation duly organized, validly existing and in good standing under the laws of the State of its organization, (b) has all requisite corporate power and authority to carry on its business as currently conducted, and (c) has the requisite corporate power and authority to own, lease, operate or hold the applicable Assets.

4.2 Authority; No Conflicts. Each Seller has the authority to enter into and, subject to approval pursuant to the Sale Order, consummate this Agreement and the Ancillary Agreements, and to consummate the transactions contemplated hereby and thereby. Subject to the approval of the Bankruptcy Court pursuant to the Sale Order, the execution, delivery and performance by each Seller of this Agreement and of the Ancillary Agreements to which it is a party (a) do not and shall not violate or conflict with any provision of the certificate or articles of incorporation or bylaws of such Seller, (b) do not and shall not violate any provision of any Applicable Law or any order, judgment or decree of any Governmental Entity or any Governmental Authority and (c) shall not result in the creation or imposition of any Lien (other than the Specified Licenses) upon any of the Assets.

4.3 Execution and Delivery. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby by the Sellers have been duly authorized by all necessary corporate action, and the execution and performance of the Ancillary Agreements by the Sellers has been or shall be authorized by all necessary corporate action prior to the Closing Date. Subject to Bankruptcy Court approval and entry of an Order of the Bankruptcy Court approving the terms of this Agreement, this Agreement constitutes, and upon execution of each of the Ancillary Agreements such agreements shall constitute, valid and binding obligations of the Sellers, enforceable against the Sellers in accordance with their respective terms.

4.4 Title; Sale Free and Clear of Liens. On the Closing Date, after giving effect to the Sale Order, the Assets shall be transferred to the Buyer free and clear of all Liens, subject to the Specified Licenses and the Terminated Licenses.

4.5 Litigation. Except as set forth on Schedule 4.5, and except for the Cases, there is no claim, litigation, action, arbitration or legal proceeding pending before a Governmental Entity or, to the

Sellers' Knowledge, threatened against the Sellers, relating to the Assets or affecting the Sellers' ability to perform their obligations hereunder. Subject to all of the provisions of the Bankruptcy Code, upon the Closing the Assets will not be subject to any order, writ, judgment, award, injunction or decree of any Governmental Entity that has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

4.6 Third Party Approvals. Except for (a) entry of the Sale Order and (b) approvals or consents set forth on Schedule 4.6, the execution, delivery and performance by the Sellers of this Agreement and the consummation of the transactions contemplated hereby do not require any consent, waiver, authorization or approval of, or filings with, any Person (including any Governmental Authority) that has not been obtained or is not deemed to be superseded by applicable provisions of the Bankruptcy Code (the matters described in this Section 4.6, collectively referred to as the "Consents").

4.7 Transferred Intellectual Property. Except as set forth on Schedule 4.7, the Seller Group has not been notified in writing prior to the date of this Agreement that any of the Transferred Intellectual Property is or may be infringing any trade secrets, trademarks, trade names, service marks, service names or copyrights of any third party and, to the Knowledge of the Sellers, there is no continuing infringement of the Transferred Intellectual Property by other Persons. Except as set forth on Schedule 4.7, the Seller Group as of the date of this Agreement is not bound by any outstanding judgment, injunction, order or decree restricting the use of the Transferred Intellectual Property, and any issued trademark, service mark and copyright registrations and URLs listed on Schedule 1.2(a) have not lapsed, expired or been cancelled.

4.8 Broker or Finder. Except as set forth on Schedule 4.8, no Person assisted in or brought about the negotiation of this Agreement, or the subject matter of the transactions contemplated hereby, in the capacity of broker, agent, or finder or in any similar capacity on behalf of the Sellers, and no commission or other compensation is or shall be due or owed from any of the Sellers to any Person with respect to the purchase and sale of the Assets.

4.9 DISCLAIMER OF REPRESENTATIONS AND WARRANTIES. THE ASSETS ARE BEING TRANSFERRED IN "AS IS", "WHERE IS" CONDITION AND NEITHER THE SELLERS NOR ANY EMPLOYEES, DIRECTORS, OFFICERS, SHAREHOLDERS OR REPRESENTATIVES OF THE SELLERS MAKE ANY REPRESENTATIONS OR WARRANTIES, WHETHER EXPRESS OR IMPLIED, AT LAW OR IN EQUITY, RELATING TO THE SELLER GROUP OR THE ASSETS OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WITH RESPECT TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT.

4.10 Intellectual Property.

(a) After giving effect to the Sale Order or any notice of rejection filed prior to the date of the Sale Order, except as set forth on Section 4.10(a) of the Sellers' Disclosure Schedules, the execution, delivery and performance of this Agreement and the Seller Documents, and the consummation of the transaction contemplated hereby and thereby, will not, to the Sellers' Knowledge, constitute a material breach of any Contract involving any Assets, nor cause the forfeiture or termination of any Assets.

(b) After giving effect to the Sale Order or any notice of rejection filed prior to the date of the Sale Order, Section 4.10(b) of the Sellers' Disclosure Schedules sets forth a complete and accurate list of any Contract pursuant to which any third party is authorized to use any of the Assets (the

“Seller Licenses”). Each of the Seller Licenses is valid and enforceable against the Seller Group, and, to the Sellers’ Knowledge, the other party or parties thereto, in accordance with its terms.

4.11 Termination of Representations and Warranties Upon Closing. The representations and warranties of the Sellers in this Agreement and each Ancillary Agreement shall not survive the Closing Date and shall be null and void ab initio and of no further force or effect immediately after the Closing Date.

## ARTICLE 5

### REPRESENTATIONS AND WARRANTIES OF THE BUYER

The Buyer represents and warrants to the Sellers that the following are true and correct as of the date hereof and shall be true and correct at the date of the Closing:

5.1 Organization and Power. The Buyer (a) is a duly organized, validly existing entity under the laws and in good standing in the state of its organization, (b) has all requisite power and authority to carry on the business in which it is now engaged, and (c) has taken all action required by Applicable Law, and by the Buyer’s organizational documents, to authorize the execution and delivery of this Agreement, and the purchase of the Assets and execution and delivery of the Specified Licenses in accordance with this Agreement.

5.2 Authority; No Conflicts. The Buyer has the requisite power and authority (including full limited liability company power and authority) to execute this Agreement and each Ancillary Agreement to which the Buyer is a party and to consummate the transactions contemplated hereby and thereby. The execution, delivery and performance by the Buyer of this Agreement and each Ancillary Agreement to which the Buyer is a party (a) do not and shall not violate or conflict with any provision of the certificate of formation or limited liability company agreement of the Buyer, and (b) do not and shall not violate any provision of any Applicable Law or any order, judgment or decree of any Governmental Entity or any Governmental Authority.

5.3 Execution and Delivery. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby has been duly authorized by all necessary corporate action on the part of the Buyer, and the execution and performance of each Ancillary Agreement to which the Buyer is a party has been or shall be authorized by all necessary corporate action on the part of the Buyer prior to the Closing Date. This Agreement constitutes, and upon execution by the Buyer of each of the Ancillary Agreements to which it is a party, such agreements shall constitute, valid and binding obligations of the Buyer, enforceable against the Buyer in accordance with their respective terms, except as limited by (i) applicable bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting enforcement of creditors’ rights generally and (ii) general equitable principles.

5.4 Litigation. There is no claim, litigation, action or legal proceeding before a Governmental Entity or, to the Buyer’s knowledge, threatened against the Buyer, adversely affecting the Buyer’s ability to perform its obligations hereunder. There are no bankruptcy, reorganization or arrangement proceedings pending, being contemplated by or, to the Buyer’s knowledge, threatened against the Buyer.

5.5 Condition of Assets. The Buyer (i) is purchasing the Assets in “as is”, “where is” condition, and (ii) is relying solely on its own existing knowledge and inspection of the Assets and that it has completed its due diligence inspection in respect of the Assets. The Buyer expressly acknowledges



that the Sellers are not making any representations or warranties regarding the Assets (except as specifically provided for in this Agreement or any of the Ancillary Agreements).

5.6 Sufficient Funds. The Buyer has available, and will have available as of the Closing Date, funds sufficient to pay the Purchase Price and to perform its other obligations under this Agreement and the Ancillary Agreements.

5.7 No Brokers. The Buyer has not utilized the services of or contracted or dealt with a broker or finder in connection with any of the transactions contemplated by this Agreement, including the Buyer's purchase of the Assets or any portion thereof, and no commission or other compensation is or shall be due or owed from the Buyer to any Person with respect to the purchase and sale of the Assets.

5.8 Termination of Representations and Warranties Upon Closing. The representations and warranties of the Buyer in this Agreement and each Ancillary Agreement to which the Buyer is a party shall not survive the Closing Date and shall be null and void ab initio and of no further force or effect immediately after the Closing Date.

## ARTICLE 6

### COVENANTS OF THE SELLERS

Each Seller covenants and agrees with the Buyer that:

6.1 Reasonable Best Efforts.

(a) Each Seller shall use its reasonable best efforts to cause, to the extent within such Sellers' control, the conditions set forth in Article 8 to be satisfied and to facilitate and cause the consummation of the transactions contemplated hereby.

(b) Each of the Sellers shall take all actions, including appropriate service and notice of pleadings, in form and substance reasonably satisfactory to the Buyer, needed to obtain a Sale Order that authorizes, orders and effects a sale of all of the Assets free and clear of all Excluded Liabilities and Liens and other interests.

6.2 Sale Order. The Sellers, having filed the Debtors' Motion (the "IP Sale Motion") for Orders Pursuant to Sections 332, 363, 365 and 105 of Title 11 of the United States Code and Rules 2002, 6004 and 6006 of the Federal Rules of Bankruptcy Procedure: (i) Approving Bidding Procedures With Respect to Sale of Certain IP Assets, Including Expense Reimbursement for a Stalking Horse Bidder, Setting the Sale Hearing Date, and Appointing a Consumer Privacy Ombudsman; and (ii) Approving and Authorizing the Sale of IP Assets to the Highest and Best Bidder Free and Clear of all Liens, Interests, Claims and Encumbrances and the Assumption and Assignment of Certain Related Executory Contracts and Waiving the Requirements of Bankruptcy Rules 6004(h) and 6006(d) and obtained entry of the Order Pursuant to Sections 332, 363, 365 and 105 of the Bankruptcy Code and Rules 2002, 6004, and 6006 of the Federal Rules of Bankruptcy Procedure Approving Bidding Procedures in Connection with the Sale of the Debtors' IP Assets Free and Clear of all Liens, Interest, Claims and Encumbrances, which, among other things, set a hearing to approve a sale of the Assets for September 20, 2011, shall use their reasonable best efforts to file any further motion or other pleading for approval of the Sale Order as soon as possible so as to obtain the entry by the Bankruptcy Court of the Sale Order no later than September 30, 2011. The Sellers shall, with the cooperation of the Buyer, diligently prosecute the IP Sale Motion, and seek to obtain entry of the Sale Order, and the Sellers shall make all reasonable efforts to deliver to the Buyer prior to filing, and as early in advance as is practicable to permit adequate and reasonable time for the Buyer and its

counsel to review and comment, copies of all proposed pleadings, motions, notices, statements schedules, applications, reports and other papers to be filed by the Sellers in connection with such motions and relief requested therein.

6.3 Notice to the Buyer. Each Seller agrees to promptly notify the Buyer in writing of any information it obtains or becomes aware of that would indicate that a representation and warranty of the Sellers made herein or in any Schedule hereto is not correct in all material respects or that any of the conditions to Closing shall not be satisfied or reasonably likely will not be satisfied.

6.4 Consents and Approvals. The Sellers shall use their reasonable best efforts to obtain all Consents required, including any required by the Bankruptcy Code or other Applicable Law, to be obtained by the Sellers or the other members of the Seller Group to effect the transactions contemplated hereby. Without limiting the foregoing, as soon as practicable after the date of this Agreement, the Sellers shall make or cause to be made all such further filings and submissions, and take or cause to be taken such further action, as may reasonably be required in connection therewith on a timely basis.

6.5 Customer List. Each Seller shall use its reasonable best efforts to address matters related to the conveyance of any Customer List or any portion thereof identified by the Sale Order.

6.6 Public Statements. From the date hereof through the Closing Date, no public release or announcement concerning the transactions contemplated by this Agreement shall be issued by any Sellers or other members of the Seller Group or the Buyer without the prior consent of the Seller Group or the Buyer, as the case may be (which consent shall not be unreasonably withheld), except as such release or announcement may be required by Applicable Law, in which case the party required to make the release or announcement shall allow the other reasonable time to comment on such release or announcement in advance of such issuance; provided, however, that the Sellers may, in consultation with the Buyer, make internal announcements to their respective employees that are consistent with the parties' prior public disclosures regarding the transactions contemplated by this Agreement after reasonable prior notice to and consultation with the Buyer. Nothing in this Section 6.6 or elsewhere in this Agreement shall limit or be deemed to limit any member of the Seller Group's right or ability to make disclosures in connection with the Cases or the Buyer's right or ability to make disclosures in connection with any regulatory obligation.

6.7 Employees. Notwithstanding any of the terms and conditions to the contrary herein or in that confidentiality letter between the Buyer and the Sellers, dated April 21, 2011 (the "Confidentiality Agreement"), the Buyer and any of its Affiliates may (i) request a list from Sellers or other members of the Seller Group of former officers or employees of Sellers or other members of the Seller Group primarily related to the Business, and (ii) solicit any current or former officer or employee of Sellers or other members of the Seller Group primarily related to the Business for the purpose of discussing the potential retention of such individuals by the Buyer or any of its Affiliates following the Closing.

6.8 Access to Information. From the date hereof until the Closing Date, each of the Sellers and other members of the Seller Group shall afford to the Buyer and its authorized personnel and representatives reasonable access during normal business hours to make such reasonable investigation of the Assets, and such examination of the relevant books and records of the Assets as the Buyer may reasonably request and to discuss the affairs, finances and accounts related to the Assets with the designated personnel thereof. Any such investigation or examination shall be conducted at times reasonably acceptable to Sellers and upon reasonable prior notice to Sellers identifying any personnel of Sellers or other members of the Seller Group with whom the Buyer desires to discuss the above referenced matters. Sellers may designate any Person to be present for any such discussion. To the extent reasonably practical, from the date hereof until the Closing Date, the Sellers shall promptly inform the Buyer of any and all material matters that arise during such period affecting the Assets of which the

Sellers have Knowledge. Notwithstanding anything herein to the contrary, no such investigation or examination shall be permitted to the extent that it would require the Sellers or any Affiliate to disclose information subject to attorney-client privilege or conflict with any confidentiality obligations to which the Sellers or any members of the Seller Group are bound, from which the Sellers will use commercially reasonable efforts to be released.

6.9 Transferred Intellectual Property Maintenance. From the date hereof to the Closing Date, the Sellers shall use commercially reasonable efforts in the ordinary course of business to protect and preserve the Transferred Intellectual Property.

6.10 Cessation of Use, Removal of Marks.

(a) The Seller Group shall cease all use of the name “Borders” for direct marketing, promotion or sales purposes to customers identified through use of the Customer List as of the date of the Closing. The Seller Group shall cease all use of the name “Borders” for marketing, promotion or sales purposes to the general public, except for a period of forty-five (45) days immediately following the Closing Date and solely insofar as may be required in connection with the winding down of Seller Group’s business and the prosecution of the Cases.

(b) Subject to Section 6.10(a), after the expiration of such period but in no event for a period in excess of one hundred eighty (180) days following the Closing Date, the Seller Group may continue to use the name “Borders” to prosecute the Cases and effectuate the winding down of its operations, provided, that upon the expiration of such one hundred eighty (180) day period, the Sellers shall, within thirty (30) days after request of the Buyer, cause each entity in the Seller Group to change its names to a name that is not (and that is not confusingly similar to) “Borders” and will provide the Buyer with such consents as may be necessary to permit the Buyer or its designee to use the corporate name.

## ARTICLE 7

### COVENANTS OF THE BUYER

The Buyer covenants and agrees with the Sellers that:

7.1 Reasonable Best Efforts. The Buyer shall use its reasonable best efforts to cause, to the extent within the Buyer’s control, the conditions set forth in Article 8 to be satisfied and to facilitate and cause the consummation of the transactions contemplated hereby.

7.2 Notice to the Sellers. The Buyer agrees to promptly notify the Sellers in writing of any information the Buyer obtains or becomes aware of that would indicate that a representation and warranty of the Buyer made herein or in any Schedule hereto is not correct in all material respects.

7.3 Bankruptcy Court Approval and Related Matters. The Buyer acknowledges and agrees to Article 11 and shall use reasonable best efforts to assist the Sellers in obtaining any orders necessary to consummate the transactions contemplated hereby and any orders ancillary hereto and agree to provide the Sellers with information necessary to obtain such orders.

7.4 Confidentiality. The Buyer shall maintain the Confidential Information in accordance with the terms of the Confidentiality Agreement. In the event the Closing does not occur for any reason, the Buyer shall immediately return to the Sellers or destroy all copies and recordings of the Confidential Information in their possession or under their control in accordance with the terms of the Confidentiality Agreement.

7.5 Privacy. On or prior to the Closing Date, the Buyer agrees to adopt a written policy with respect to protection of the confidentiality of personally identifiable information regarding the customers and employees of the Seller Group and other Persons not affiliated with the Seller Group substantially similar in all material respects to those included in the written privacy policies of the Seller Group in effect as of the date of this Agreement. From and after the Closing Date, the Buyer shall comply with such policy, or such successor policies adopted by Buyer from time to time, and Applicable Law with respect to the protection of such personally identifiable information. Prior to making any material change to these privacy policies with respect to the personally identifiable information or the use or disclosure thereof different from that specified in the Buyer policies then in effect, the Buyer agrees (a) to notify the Persons whose personally identifiable information is included in the Assets by mail or email and afford such persons the opportunity to opt-out of the changes to the privacy policy or the new uses of their information; (b) to employ appropriate information security controls and procedures (technical, operational, and managerial) to protect their information; and (c) to abide by all Applicable Laws.

## ARTICLE 8

### CONDITIONS TO CLOSING

8.1 Sellers' Conditions to Closing. The obligations of the Sellers at the Closing are subject, at the option of the Sellers, to the satisfaction at or prior to the Closing of the following conditions:

(a) All representations and warranties of the Buyer contained in this Agreement shall be true in all material respects at and as of the Closing and the Buyer shall have performed and satisfied all material obligations in all material respects required by this Agreement to be performed and satisfied by the Buyer at or prior to the Closing. The Buyer shall have provided the Sellers with certificates executed by a responsible officer of the Buyer to such effect;

(b) All material Consents legally required to be obtained by the Sellers for the Closing shall have been obtained; and

(c) The Buyer shall have executed and delivered the documents required to be executed and delivered pursuant to Section 3.3.

8.2 Buyer's Conditions to Closing. The obligations of the Buyer to consummate the transactions contemplated hereby at the Closing are subject, at the option of the Buyer, to the satisfaction at or prior to the Closing of the following conditions:

(a) All representations and warranties of the Sellers contained in this Agreement and the Ancillary Agreements shall be true in all material respects at and as of the Closing and the Sellers shall have performed and satisfied in all material respects all obligations required by this Agreement and the Ancillary Agreements to be performed and satisfied by the Sellers at or prior to the Closing. The Sellers shall have provided the Buyer with certificates executed by a responsible officer of the Sellers to such effect;

(b) All material Consents legally required to be obtained by the Sellers for the Closing shall have been obtained;

(c) The Sellers shall have executed and delivered the documents required to be executed and delivered pursuant to Section 3.2;

(d) The Sale Order shall not impose any material additional requirement on the Buyer not otherwise required by the terms of this Agreement; and

(e) The Seller Group shall have obtained Bankruptcy Court approval and shall have taken all necessary actions to reject or terminate the licenses specified in the Seller Group's *Notice of Winning Bidders of IP Assets* filed with the Bankruptcy Court on September 15, 2011 (the "Terminated Licenses"), and the only licenses for or relating to any of the Assets shall be the Terminated Licenses or as otherwise disclosed on Schedule 4.10(b); provided, however, that the effectiveness of the termination of any Terminated License shall not be a condition to Closing.

8.3 Conditions of the Parties to Closing. The obligations of the Parties to consummate the transactions contemplated hereby at the Closing are further subject to the satisfaction at or prior to the Closing of the following conditions, which conditions are not subject to waiver:

(a) No stay or injunction shall have been obtained by a court of competent jurisdiction restraining, prohibiting or declaring illegal the purchase and sale contemplated by this Agreement; and

(b) The Bankruptcy Court shall have entered the Sale Order with the required findings and determinations identified in Article 13 and any other Orders necessary to permit and consummate the transactions contemplated by this Agreement, the Sale Order and each such other Order to be in form and substance reasonably satisfactory to the Parties.

## ARTICLE 9

### ADDITIONAL OBLIGATIONS AFTER CLOSING

The Parties shall have the following additional obligations after the Closing:

9.1 Execution; Delivery of Instruments and Assistance. The Sellers and the Buyer shall each execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such instruments and take such other actions as may be necessary or advisable to carry out their obligations under this Agreement and under any document, certificate or other instrument delivered pursuant hereto or thereto or required by Applicable Law.

9.2 Access to Records. From and after the Closing Date, the Buyer shall afford the Sellers, the Official Committee of Unsecured Creditors appointed in the Sellers' Cases and any trustee appointed in the Sellers' Cases, and their respective counsel, accountants and other representatives access, on reasonable notice and during reasonable business hours, to review and make copies of any computer records sold by the Seller Group hereunder to the extent reasonably necessary in connection with winding down the estates of the Sellers' or in order to comply with obligations under applicable law.

9.3 Rejection or Termination of Contracts. Sellers shall reject or terminate as soon as reasonably practicable but in no event later than the effective date of a Chapter 11 plan any Contracts that may authorize the use of the Assets. The parties acknowledge that the effective termination date of certain of the Terminated Licenses may not occur until after the Closing. From and after the Closing, the Buyer and the Sellers shall reasonably cooperate with each other to effectuate the termination of any such Terminated Licenses.

## ARTICLE 10

### TERMINATION

10.1 Termination. This Agreement may be terminated as follows:

(a) At any time by the mutual written agreement of the Sellers and the Buyer;

(b) By the Sellers or the Buyer, at their respective sole election, in the event that the Closing shall not have occurred on or before September 30, 2011 (or such later date as may be ordered by the Bankruptcy Court so long as such date is not later than December 30, 2011); *provided* that the Party seeking to terminate shall not be entitled to terminate this Agreement pursuant to this Section 10.1(b) if the failure of the Closing to occur on or prior to such date results primarily from such Party itself or themselves materially breaching any representation, warranty or covenant contained in this Agreement;

(c) By the Buyer, at its sole election, in the event of a material breach of this Agreement by the Sellers that has not been cured, or if any representation or warranty of the Seller shall have become untrue in any material respect, in either case such that such breach or untruth is incapable of being cured, by September 30, 2011; and

(d) By the Sellers, at their sole election, in the event of a material breach of this Agreement by the Buyer that has not been cured, or if any representation or warranty of the Buyer shall have become untrue in any material respect, in either case such that such breach or untruth is incapable of being cured, by September 30, 2011.

10.2 Effect of Termination. Upon the termination of this Agreement in accordance with Section 10.1, the Parties shall be relieved of any further obligations or liability under this Agreement other than (a) confidentiality obligations contained in Section 7.4; (b) any obligations for breach of this Agreement occurring prior to such termination; or (c) the Buyer's right to refund of and the Seller's obligation to refund the Deposit to the Buyer, or the Sellers' right to retain the Deposit, in each case as described in Section 2.6.

## ARTICLE 11

### BANKRUPTCY COURT APPROVAL

11.1 Bankruptcy Court Approval. The Seller Group and Buyer each acknowledges that the obligations of the Sellers under this Agreement and the transactions contemplated hereby are contingent upon the approval and authorization of the Bankruptcy Court.

## ARTICLE 12

### GENERAL PROVISIONS

12.1 Notice. All notices hereunder shall be in writing, dated and signed by the Party giving the same. Each notice shall be either (a) delivered in person to the address of the Party for whom it is intended at the address of such Party as shown below, (b) delivered to the United States Postal Service in a secure and sealed envelope or other suitable wrapper addressed to the Party for whom it is intended at the address of such Party as provided below, with sufficient postage affixed, certified or registered mail, return receipt requested, (c) sent by facsimile with a confirmation sheet, or (d) delivered to a nationally recognized overnight courier service that traces any such notice. The effective date of such notice shall

be the date of delivery in the event of delivery in accordance with (a) or (c) and five (5) days after deposit in the U.S. Mail in the event of delivery in accordance with (b). The address at which any Party hereto is to receive notice may be changed from time to time by such Party by giving notice of the new address to all other parties hereto. The addresses of the Parties, until changed in accordance with the foregoing, are:

The Sellers:                    Borders Group, Inc.  
   100 Phoenix Drive  
   Ann Arbor, Michigan 48108  
   Attn: Matthew A. Chosid, Esq.  
   Facsimile: (734) 477-1370

And copies (which shall not constitute notice) to:

Kasowitz, Benson, Torres & Friedman LLP  
1633 Broadway  
New York, New York 10019  
Attn: Andrew K. Glenn, Esq.  
Facsimile: (212) 506-1800

Streambank, LLC  
97 Chapel Street, 3<sup>rd</sup> Floor  
Needham, Massachusetts 02492  
Attn: David Peress  
Facsimile: (781) 651-4272

And to counsel for the Official Committee of Unsecured Creditors of Sellers at:

Lowenstein Sandler PC  
65 Livingston Avenue  
Roseland, New Jersey 07068  
Attn: Bruce Buechler, Esq.  
Facsimile: (973) 597-2309

The Buyer:                    Barnes & Noble, Inc.  
   122 Fifth Avenue  
   New York, New York 10011  
   Attn: Eugene V. DeFelice, Esq.  
   Facsimile: (212) 463-5683

And a copy (which shall not constitute notice) to:

Cravath, Swaine & Moore LLP  
Worldwide Plaza  
825 Eighth Avenue  
New York, New York 10019  
Attn: Paul H. Zumbro, Esq.  
   Andrew R. Thompson, Esq.

12.2 Amendment. This Agreement may not be amended nor any rights hereunder waived except by an instrument in writing signed by the Parties and, if required by Applicable Law, by the Official Committee of Unsecured Creditors appointed in the Sellers' Cases.

12.3 Payment of Costs. Except as otherwise set forth herein, the Parties shall each pay their own costs incurred in negotiating this Agreement and in consummating the transactions contemplated hereby, including any fees or commission payable to any party representing them in connection with arranging or negotiating this Agreement and transactions contemplated hereby.

12.4 Headings. The headings of the sections of this Agreement are for convenience or reference only and shall not affect any of the provisions of this Agreement.

12.5 References. References made in this Agreement, including use of a pronoun, shall be deemed to include, where applicable, masculine, feminine, singular or plural, individuals, partnerships or corporations.

12.6 Applicable Law. This Agreement and the transactions contemplated hereby shall be construed in accordance with and governed by the laws of the State of New York. Each of the Parties agrees that any proceeding brought to enforce the rights and obligations of any Party under this Agreement (including the schedules attached hereto) or any Ancillary Agreement shall be commenced and maintained exclusively in the Bankruptcy Court and that the Bankruptcy Court shall have exclusive jurisdiction over any such proceeding.

12.7 Entire Agreement. This Agreement, the Schedules attached hereto, and the Ancillary Agreements (in each case incorporated herein by this reference) contain the entire agreement and understanding of the Parties hereto with respect to the transactions contemplated hereby, and supersede any and all prior agreement, arrangements, and understandings, whether oral or written, between the Parties.

12.8 Authorization of Parent as Representative of the Sellers.

(a) By entering into and executing this Agreement, the Sellers irrevocably appoint Parent as their agent, effective as of the date hereof, and authorize and empower Parent to fulfill the role of the Sellers' representative hereunder, and each Seller appoints Parent as such Person's true and lawful attorney in fact and agent, for all purposes necessary or desirable in order for Parent to take all actions contemplated by this Agreement, with the ability to execute and deliver all instruments, certificates and other documents of every kind incident to the foregoing to all intents and purposes and with the same effect as such Seller could do personally, including to give and receive notices and communications; to object to such deliveries, to agree to, negotiate, enter into settlements and compromises of, and comply with orders of courts with respect to such claims; and to take all actions necessary or appropriate in the judgment of Parent for the accomplishment of the foregoing. The power of attorney granted in this Section 12.8 is coupled with an interest and is irrevocable.

(b) The Buyer shall be entitled to rely exclusively upon any communication given or other action taken by Parent pursuant to this Agreement, and shall not be liable for any action taken or not taken in good faith reliance on a communication or other instruction from Parent.



12.9 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties and, except as otherwise prohibited, their respective successors and assigns. Nothing contained in this Agreement, or implied herefrom, is intended to confer upon any Person other than the Parties any benefits, rights, or remedies.

12.10 Assignment. No Party may assign all or any portion of its respective rights or delegate any portion of its duties hereunder without (a) the approval of the Bankruptcy Court and (b) the written consent of the other Parties and the Official Committee of Unsecured Creditors appointed in the Sellers' Cases; *provided* that the Buyer may assign this Agreement in whole or in part to any direct or indirect subsidiary of the Buyer so long as the Buyer retains its obligations under this Agreement, subject to the terms and conditions hereof, to effect the consummation of the transactions contemplated hereby. All of the terms, provisions and conditions of this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors, assigns and legal representatives.

12.11 Severability. If a court of competent jurisdiction determines that any provision of this Agreement is void, illegal or unenforceable, the other provisions of this Agreement shall remain in full force and effect and the provisions that are determined to be void, illegal or unenforceable shall be limited so that they shall remain in effect to the extent permissible by Applicable Law.

12.12 Publicity. Prior to the Closing, no Party shall issue any press release or similar public announcement concerning the transactions contemplated hereby or the contents of this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, nothing in this Section 12.12 shall preclude any Party (or Person controlling such Party) from making disclosures required by Applicable Law or Governmental Authority (or of any applicable stock or securities exchange or otherwise), or appropriate filings with the Bankruptcy Court in connection with the Cases or necessary and proper in conjunction with the filing of any Tax return or other document required to be filed with any Governmental Authority; *provided* that if practicable the Party required to make the release or statement shall allow the other Party reasonable time to comment on such release or statement in advance of such issuance.

12.13 Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement. Any reference to any federal, state, local or foreign statute shall be deemed to refer to such statute as amended and to all rules and regulations promulgated thereunder, unless the context requires otherwise. The word "include" or "including" means include or including, without limitation. All references in this Agreement to Sections and Schedules shall be deemed references to Sections of, and Schedules to, this Agreement unless the context shall otherwise require.

12.14 Specific Performance. Each Party acknowledges that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed by such Party in accordance with their specific terms or were otherwise breached by such Party. Each Party accordingly agrees that, prior to the termination of this Agreement pursuant to Article 10, in addition to any other remedy to which the other Parties are entitled at law or in equity, the other Parties are entitled to injunctive relief to prevent breaches of this Agreement by such Party and otherwise to enforce specifically the provisions of this Agreement against such Party. Each Party expressly waives any requirement that any other Party obtain any bond or provide any indemnity in connection with any action seeking injunctive relief or specific enforcement of the provisions of this Agreement.

## ARTICLE 13

### DEFINITIONS

“Affiliate” shall mean, with respect to any Person, any direct or indirect subsidiary or such Person, and any other Person that directly, or through one or more intermediaries, controls or is controlled by or is under common control with such first Person.

“Agreement” shall have the meaning set forth in the Preamble.

“Ancillary Agreements” shall mean any ancillary agreements hereto to which each Party is or may be a party.

“Applicable Law” shall mean, with respect to any Person, any federal, state or local law (including common law), statute, code, ordinance, rule, regulation, or other requirement enacted, promulgated, issued or entered by a Governmental Authority, that is applicable to such Person or its business, properties or assets.

“Assets” shall have the meaning set forth in Section 1.2.

“Avoidance Actions” shall mean any and all actions which a trustee, debtor-in-possession or other appropriate party in interest may assert on behalf of the Sellers or their estate under applicable state statute or Chapter 5 of the Bankruptcy Code, including actions under one or more provisions of Sections 542, 543, 544, 545, 546, 547, 548, 549, 550, 551 and 553.

“Bankruptcy Code” shall have the meaning set forth in the Recitals.

“Bankruptcy Court” shall have the meaning set forth in the Recitals.

“Business” means the entirety of that portion of the business of the Seller Group and their respective Affiliates that is comprised of the ownership and/or operation of Borders commercial websites, including, without limitation, www.borders.com, all of which websites are listed in the annexed Schedules under Section 1.2, it being understood that such ownership and operation includes, without limitation, the advertising, promotion, marketing, transfer and sale of goods and services, and entry into agreements and arrangements with customers, suppliers, service providers and other parties in connection therewith.

“Business Day” shall mean any day other than Saturday, Sunday or any day on which banking institutions in the United States are closed either under Applicable Law or action of any Governmental Authority.

“Buyer” shall have the meaning set forth in the Preamble.

“Cases” shall have the meaning set forth in the Recitals.

“Closing” shall have the meaning set forth in Section 3.1.

“Closing Date” shall have the meaning set forth in Section 3.1.

“Company” shall have the meaning set forth in the Preamble.

“Confidentiality Agreement” shall have the meaning set forth in Section 7.4.

“Confidential Information” shall have the meaning set forth for “Evaluation Material” as such term is defined in the Confidentiality Agreement.

“Consents” shall have the meaning set forth in Section 4.6.

“Contract” shall mean any agreement, arrangement, contract, lease, purchase order, sale order or commitment, or any series of related agreements, arrangements, contracts, leases, purchase orders, sale orders, or commitments.

“Customer List” shall mean all customer data and membership lists of the Seller Group, including, without limitation, contact information (including seven-digit telephone number) and email addresses and purchasing history and related information, in digital or any other recorded form, with respect to the customers, rewards and loyalty program participants and gift card holders, including information regarding purchasing tendencies, but shall exclude gift card information, credit and debit card information, social security numbers, telephone area codes, records of individuals whose addresses are outside the United States, cookie information, non-aggregate clickstream data and printed records of customer data and membership lists.

“Deposit” shall have the meaning set forth in Section 2.6.

“Excluded Assets” shall have the meaning set forth in Section 1.3.

“Excluded Liabilities” shall have the meaning set forth in Section 2.2(b).

“Governmental Approvals” shall mean those approvals, authorizations, confirmations, consents, exemptions and orders from Governmental Authorities and the making of all necessary registrations and filings (including filings with Governmental Authorities) and the taking of all reasonable steps as may be necessary to consummate the transactions contemplated hereby under Applicable Law.

“Governmental Authority” shall mean any national, federal, state, provincial, local or foreign government, or any subdivision, agency, instrumentality, authority, department, commission, board or bureau thereof, or any federal, state, provincial, local or foreign court, tribunal, or arbitrator, including the Bankruptcy Court.

“Governmental Entity” shall mean any court, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign.

“IP Assignments” shall have the meaning set forth in Section 3.2(a).

“IP Sale Motion” shall have the meaning set forth in Section 6.2.

“Knowledge of the Sellers” (or “the Sellers’ Knowledge”) shall mean the actual knowledge of the officers of the Sellers listed on Schedule 13.1, after reasonable inquiry.

“Liabilities” means, as to any Person, all debts, adverse claims, liabilities, commitments, responsibilities and obligations of any kind or nature whatsoever, direct, indirect, absolute or contingent, matured or unmatured of such Person, whether accrued, vested or otherwise, whether known or unknown, foreseen or unforeseen, and whether or not actually reflected, or required to be reflected, in such Person’s balance sheets or other books and records.

“Liens” shall mean any liens (including any inchoate liens and any liens for Taxes, materialmen, laborer, or mechanics’ liens, judgment liens, liens imposed by operation of law, contractual liens, and liens arising out of or resulting from any employment agreements, employee benefits plans or laws, or collective bargaining agreements), encumbrances, burdens, claims, demands, judgments, orders, writs, injunctions, decrees, and arbitral awards, attachments, charges, security interests, mortgages, deeds of trust, pledges, hypothecations, adverse claims of title, preferential rights of purchase and/or first refusal rights, options, contracts for sale, transfer, or other disposition, and any claims or rights of any kind, description or nature whatsoever of or in favor of any creditors, Governmental Entities, or other Persons, whether or not any of the above arose, accrued, or relate to any time periods before or after the filing of the Cases, and whether or not a Chapter 11 or Chapter 7 trustee is hereafter appointed in the Cases for any reason.

“Material Adverse Effect” shall mean with respect to the Assets, any event or occurrence which shall materially and adversely affect the Assets, taken in each case as a whole; *provided* that any (a) change in general economic or industry-wide conditions, or (b) adverse effect that is solely the result of the execution or announcement of this Agreement or the transactions contemplated hereby or the consummation thereof, shall not be taken into account for purposes of determining a Material Adverse Effect hereunder.

“Order” shall mean any writ, judgment, decree, injunction or similar order, writ, ruling, directive or other requirement of any Governmental Entity (in each case whether preliminary or final).

“Parent” shall have the meaning set forth in the Preamble.

“Party” and “Parties” shall have the meanings set forth in the Preamble.

“Person” shall mean any individual, corporation, partnership, joint venture, trust, limited liability company, business association, Governmental Entity or other entity.

“Proprietary Rights” shall mean all intellectual property rights or proprietary rights of Seller relating to the Transferred Intellectual Property. Notwithstanding the foregoing, Proprietary Rights do not include an assumption of any Contracts. For the avoidance of doubt, Proprietary Rights do not include the Transferred Intellectual Property.

“Purchase Price” shall have the meaning set forth in Section 2.1.

“Sale Order” shall mean the Order of the Bankruptcy Court entered pursuant to Bankruptcy Code Sections 363 and 365 that approves the sale of the Assets to the Buyer pursuant to the terms and conditions of this Agreement and the provisions of the Bankruptcy Code (including Bankruptcy Code Section 363). The Sale Order shall find, determine and order, to the Buyer’s reasonable satisfaction, at least the following:

The procedures set forth in the Bidding Procedures Order were substantively fair to all parties. The Sellers conducted the sale process (including the Auction) in accordance with the procedures set forth in the Bidding Procedures Order;

Reasonable notice of the sale of the Assets and a reasonable opportunity to object or be heard with respect to the rejection or termination of the Terminated Licenses has been afforded to all interested persons and entities;

Subject only to entry of the Sale Order, the Sellers have (i) full power and authority to execute the Agreement, (ii) all of the power and authority necessary to consummate the transactions contemplated by the Agreement, and (iii) taken all company action necessary to authorize and approve such transactions;

This Sale Order and consummation of the Sale are supported by good business reasons and will serve the best interests of the Sellers, their estates, and creditors by maximizing the values obtained from Sale Assets;

The Agreement was negotiated, proposed, and entered into by the Buyer without collusion, in good faith, and from an arm's length bargaining position. There is no insider relationship between affiliates of the Buyer and the Sellers. The Sellers and the Buyer have not engaged in any conduct that would cause or permit the Sale Agreement to be avoided under section 363(n) of the Bankruptcy Code;

The Buyer is a good faith purchaser under section 363(m) of the Bankruptcy Code and as such is entitled to all of the protections afforded thereby, and has acted in good faith in all respects in connection with this proceeding, in that: (i) the Buyer, in acquiring the Assets, recognized that the Sellers were free to deal with other parties in interest; (ii) the Buyer agreed to provisions in the Agreement which would enable the Sellers to accept a higher and better offer; (iii) the Buyer in no way induced or caused the Chapter 11 filing of any of the Debtors, including the Sellers; (iv) all payments to be made by the Buyer and other agreements entered into between the Buyer and the Sellers in connection with the Sale have been disclosed; (v) the negotiation and execution of the Agreement and related agreements was in good faith and an arm's length transaction; and (vi) the disclosure requirements required by Local Rule 6004-1 have been satisfied;

The consideration to be paid by the Buyer to the Sellers for the Assets is fair and reasonable, is the highest or otherwise best offer for the Sale Assets, and constitutes reasonably equivalent value and fair consideration under the Bankruptcy Code, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act, and any similar laws of any state or jurisdiction whose law is applicable to the sale;

The consummation of the Sale pursuant to the Agreement will be a legal, valid, and effective sale of the Assets to the Buyer and will vest the Buyer with all of the Sellers' right, title, and interest in and to the Assets, free and clear of all Liens and claims (as defined in section 101(5) of the Bankruptcy Code), in accordance with section 363(f) of the Bankruptcy Code, because one or more of the standards set forth in sections 363(f)(1)-(5) of the Bankruptcy Code has been satisfied;

The automatic stay of section 362(a) of the Bankruptcy Code shall not apply to and otherwise shall not prevent the exercise or performance by any party of its rights or obligations under the Agreement, including, without limitation, with respect to any cash held in escrow pursuant to the provisions thereof; and

Without limiting the generality of the other provisions of this Sale Order, and to the extent provided by federal law, the Buyer, under no circumstances, shall be deemed to be a successor of the Sellers. Accordingly, the Buyer shall have no successor or vicarious liabilities of any kind with respect to Sale Assets and all persons and entities shall be hereby enjoined from asserting any such claims against the Buyer.

“Seller” or “Sellers” shall have the meaning set forth in the Preamble.

“Sellers’ Disclosure Schedules” shall have the meaning set forth in the first paragraph of Article 4.

“Seller Group” shall have the meaning set forth the Recitals.

“Sellers Licenses” shall have the meaning set forth in Section 4(d).

“Specified Licenses” shall mean new trademark, trade dress and domain name licenses, in each case in a form reasonably acceptable to the Buyer and the Sellers, creating no obligations of the licensor other than to grant a perpetual, fully-paid up, royalty-free license (provided the licensee shall be obligated for any maintenance fees imposed by applicable Governmental Authorities) to use and apply the applicable “Borders” trademark in relation to the sale of goods and services as specified therein within the applicable territory, with respect to (i) Australia and New Zealand, (ii) Singapore, (iii) Malaysia and (iv) certain Persian Gulf Countries including the United Arab Emirates. The Seller Group shall receive the amount paid by the licensee to obtain the fully-paid up, royalty-free license contemplated under the Specified Licenses and the Buyer shall direct each licensee to pay such fees directly to the account of the Seller Group and, to the extent Buyer actually receives payment of such amounts, promptly transfer same to the Sellers.

“Tax” or “Taxes” shall mean (a) all taxes, charges, fees, levies, penalties or other assessments of any kind whatsoever imposed by an federal, state, local or foreign taxing authority, including, but not limited to, income, excise, property, sales, transfer, franchise, payroll, withholding, social security or other taxes, whether computed on a separate or consolidated, unitary or combined basis or in any other manner, including any interest, penalties or additions attributable thereto or (b) liability for the payment of any amounts of the type described in clause (a) above as a result of being a party to any agreement or any express or implied obligation to indemnify or otherwise succeed to the liability of any other Person.

“Tax Code” shall mean the Internal Revenue Code of 1986, as it has been and may be amended.

“Transferred Claims” shall have the meaning set forth in Section 1.2(d).

“Transferred Intellectual Property” shall mean have the meaning set forth in Section 1.2(a).

“Treasury Regulations” shall mean the federal income Tax regulations promulgated under the Tax Code, as amended, including any temporary and proposed regulations.

*Remainder of Page Intentionally Left Blank.  
Signature Pages Follow.*

This Asset Purchase Agreement is executed by the Parties on the date set forth above.

SELLERS:

BORDERS GROUP, INC.

By: \_\_\_\_\_

Name: Holly Felder Etlin

Title: President

BORDERS, INC.

By: \_\_\_\_\_

Name: Holly Felder Etlin

Title: President

BUYER:

BARNES & NOBLE, INC.

By: \_\_\_\_\_

Name: Gene DeFelice, Esq.

Title: Vice President, General Counsel and  
Corporate Secretary

*Signature Page to Asset Purchase Agreement*

## SELLERS' DISCLOSURE SCHEDULES