# NON-DISCLOSURE/NON-CIRCUMVENTION AGREEMENT

This Non-disclosure/Non-circumvention Agreement (this "Agreement") is entered into as of (the “Effective Date”), between:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_., a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Corporation and its related companies, agents and affiliates (the "Disclosing Party"), and:

, its related companies, agents, and affiliates (the “Receiving Party”). The Disclosing Party and the Receiving party shall hereinafter be referred to as the “Parties.”

WHEREAS, the Parties wish to enter into a strategic business relationship wherein both parties will have access to sensitive data of the other, some of which will be confidential and privileged;

WHEREAS, the Disclosing Party has developed certain property, intellectual and otherwise, that the Receiving Party desires to have disclosed to it;

WHEREAS, the Disclosing Party intends to disclose to the Receiving Party certain confidential and/or proprietary information relating to the Disclosing Party;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties agree as follows:

1.0 Non-Disclosure:

* 1. *Confidential and/or Proprietary Information:*

The Receiving Party shall maintain all confidential and/or proprietary information disclosed to it from Disclosing Party in strict confidence and shall not disclose the information to any third parties without the expressed written consent of the Disclosing Party. The Receiving Party shall also use reasonable care to protect any information disclosed to it by the Disclosing Party from third parties. For purposes of this Agreement, confidential and/or proprietor information shall be defined as follows:

*Confidential and/or Proprietary Information*, as used in this Agreement, shall mean any and all information disclosed by the Disclosing Party that would logically be considered the property of the Disclosing Party, including but not limited to information regarding the Disclosing Party’s operations, business affairs, intellectual property, marketing plans,

software applications, digital technologies, research and development, business plans, marketing plans, customer agreements, trade secrets, and the specific items listed below as well as any other information that would be considered to be the property of the Disclosing Party whether or not such information is marked as confidential or proprietary.

*Information Specifically Included in this Agreement shall be attached as Exhibit A and incorporated by reference as though fully set forth herein. The inclusion or exclusion of Exhibit A is not intended to limit in any way the materials covered by this agreement.*

* 1. *Confidentiality*

The contents of this Agreement and the terms and conditions of the individual sales contracts which may occur under this Agreement, all communications between the Parties, written, oral or electronic, shall be kept strictly confidential by both Parties and shall not be disclosed to any third party, unless otherwise mutually agreed by the Parties.

2.0 Non-Circumvention:

The Receiving Party shall not use any information provided to it by the Disclosing Party for any purpose whatsoever other than to fulfill the intended business relationship between the Parties or as otherwise agreed to between the Parties as evidenced by a written agreement. The Parties recognize that the Disclosing Party is providing the information to Receiving Party solely in contemplation of entering into a business relationship with the Receiving Party. The non-disclosure and non-circumvention provisions of this Agreement are intended to be broad so that the Receiving Party cannot in any way disclose the information provided by The Disclosing Party to the Disclosing Party’s detriment.

3.0 Equitable Relief:

The Parties acknowledge that that irreparable damage will result out of the Receiving Party’s breach of this Agreement. Therefore, if the Receiving Party breaches or threatens to breach this Agreement, the Disclosing Party shall have the right to seek and obtain injunctive relief and the Receiving Party hereby consents to such action. In the event the Disclosing Party seeks equitable relief, it is not to be construed in any way whatsoever as a waiver of other claims including claims for damages.

4.0 Indemnification:

The Receiving Party shall indemnify, protect, defend, and hold the Disclosing Party, its heirs and assigns, harmless from any and all claims, demands, damages, costs, or any

other liabilities resulting from or caused in any way by the Receiving Party’s acts or omissions pertaining to or relating to this Agreement.

5.0 Return of Information:

Any of the confidential or proprietary information disclosed under this Agreement shall remain the sole property of the Disclosing Party. In the event the Parties decide not to pursue further business, the Receiving party shall provide to the Disclosing party any and all written, electronic, or otherwise stored information of any type, and any copies thereof, that constitutes or is otherwise related to the confidential and proprietary information contemplated and covered by this Agreement. Said information will be returned to the Disclosing Party within five (5) days of the written termination of this Agreement.

6.0 Term:

The term of this Agreement shall begin on the Effective Date and shall continue for an initial period of five (5) years from the Effective Date (the "Initial Term"). Thereafter, this Agreement shall be automatically renewed indefinitely for additional **five** (**5**) year periods ("Renewals"), unless either party gives the other party notice of non-renewal at least sixty (60) days prior to the end of the then-current term. It is agreed and understood that, in the event this Agreement is not renewed as provided above, neither party shall be liable to the other for damages, compensation, loss of prospective profits, or reimbursement of expenses incurred in anticipation of renewal.

7.0 Assignment:

Neither party may assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.

8.0 Binding Effect:

This Agreement shall be binding upon and shall inure to the benefit of the parties, their successors and permitted assigns.

9.0 Severability:

If the application of any provision of this Agreement shall be held to be invalid or unenforceable by any court of competent jurisdiction, then such provision shall be reformed so that it accomplishes the intention of the parties to the maximum extent permitted, and the validity and enforceability of other provisions of this Agreement shall not in any way be affected or impaired thereby.

10.0 Governing Law:

Except for that body of law governing choice of law, this Agreement shall be governed by, and construed in accordance with, the internal laws of the State of

.

11.0 Venue:

It is contemplated that this Agreement will be executed through the world. Venue for all disputes; however, shall be had in the .

12.0 Amendment:

Except as otherwise specifically provided in this Agreement, this Agreement may be modified or amended only by an instrument in writing, signed by an authorized officer or representative of each party.

13.0 Notices:

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be given (a) upon personal delivery to the addressee, or (b) three days after being deposited in the mail, postage prepaid, and sent registered or certified mail to a party at its address indicated on the signature page of this Agreement, or such other address of which a party shall notify the other, or (c) upon transmission by fax to the numbers indicated on the signature page, with confirmation of transmission, if sent during normal business hours, and if transmitted during other hours, on the next business day.

14.0 Section Headings:

The article and section headings of this Agreement are solely for convenience and shall not be considered in its interpretation.

15.0 Disputes:

* 1. *Resolution of Disputes*

All disputes or differences which may arise out of or in connection with this Agreement are to be settled by negotiations and/or mediation by a neutral third party prior to other recourse.

If the foregoing is unsuccessful, any dispute arising out of or in connection with the Agreement, including any question regarding its existence, validity or termination, may be referred to final resolution by arbitration under the American Arbitration Association rules

* 1. *Attorney’s Fees*

In the event any dispute arises and claims are made between the Parties, the successful or prevailing party shall be entitled to recovery attorney’s fees and costs from the non-prevailing party.

16.0 Waiver:

A waiver by either party of any term or condition of this Agreement, in any one instance, shall not be deemed or construed to be a waiver of any other term or condition or any subsequent breach thereof. All waivers must be in a signed writing.

17.0 Background Check:

The Receiving Party does hereby agree that by signing this agreement Disclosing Party may perform a criminal background check on Receiving Party.

18.0 Entire Agreement:

This instrument contains the entire integrated agreement between the parties with respect to its subject matter, and supersedes all prior negotiations, representations or agreements, whether written or oral.

Authorized Signatures

# Disclosing Party Receiving Party

By

By

Printed Name and Title Printed Name

SS#:

Date:

Date:

# EXHIBIT A

Confidential and/or Proprietary Information, as used in this Agreement, shall mean in whole or in part, information concerning the Company’s \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (collectively referred to herein as the "Confidential and Proprietary Information"). This Confidential and Proprietary Information has been compiled by the Company at great expense and over a great amount of time. The Confidential and Proprietary Information is the sole and exclusive property of the Company.

Additionally, all records of the accounts of DISCLOSING PARTY’s students, of any nature, whether existing at the time of this Agreement, procured through the efforts of RECEIVING PARTY or learned by RECEIVING PARTY from any other source, and whether prepared by RECEIVING PARTY or otherwise, shall be the exclusive property of DISCLOSING PARTY, except for any records relating to legal business conducted between RECEIVING PARTY and the students, or as otherwise prohibited by law.

Trade Secrets. RECEIVING PARTY agrees that the names and addresses of DISCLOSING PARTY’s customers constitutes trade secrets of DISCLOSING PARTY and that the sale or unauthorized use or disclosure of any of DISCLOSING PARTY’s trade secrets obtained by RECEIVING PARTY during the term of this Agreement constitutes unfair competition.

RECEIVING PARTY agrees and promises not to engage in any unfair competition with DISCLOSING PARTY. RECEIVING PARTY shall not misuse, misappropriate, or disclose any of the trade secrets described herein, directly or indirectly, or use them in any way, either during the term of this Agreement or at any time thereafter.