

## TERMS AND CONDITIONS

### 1. Definitions.

- (a) "Buyer" means the entity identified on the purchase order as the Buyer of the Products and/or Services.
- (b) "Seller" means the entity identified on Buyer's purchase order as the Seller of the Products or the provider of Services.
- (c) "Product(s)" means (i) any product designed or manufactured by or on behalf of Seller, or (ii) any third-party manufacturer's product offered for sale by Seller, in each case which has been ordered under the purchase order.
- (d) "purchase order" shall mean the relevant Buyer purchase order that references and incorporates these Terms and Conditions.
- (e) "Services" means any service provided by Seller, which has been ordered under the purchase order.
- (f) "Terms and Conditions" shall mean these Terms and Conditions; unless the Buyer and Seller have executed a separate contract (the "Contract") relating to the purchase of the Products and/or Services, in which case (i) the provisions of that Contract shall supersede and replace these Terms and Conditions; and (ii) the defined term "Terms and Conditions" shall refer to the Contract in its entirety.

**2. Acceptance of Order.** Unless Buyer otherwise expressly agrees in writing, these Terms and Conditions will govern Buyer's purchase order. Buyer's purchase order is expressly conditioned upon Seller's agreement that these Terms and Conditions shall be the sole and exclusive terms and conditions applicable to Buyer's purchase of Products and/or Services. Buyer specifically rejects, and Seller disclaims, all terms and conditions in Seller's quotation, order confirmation, invoice or otherwise proposed by Seller if such terms and conditions are additional to, different from or inconsistent with these Terms and Conditions. Any performance by Seller pursuant to Buyer's purchase order, including, without limitation, commencement of work, commencement of Services, manufacture of Product, promise of shipment or shipment of Product, whichever occurs first, shall be deemed to be an acceptance by Seller based solely upon these Terms and Conditions.

**3. Entire Agreement; Amendments.** Buyer's purchase order together with these Terms and Conditions constitute the entire agreement of the parties covering Products and/or Services provided by Seller to Buyer. These Terms and Conditions supersede all other written or oral agreements between the parties with respect to the purchase of Products and/or Services. Seller and Buyer may modify these Terms and Conditions only by an express written agreement signed by both parties.

**4. Change Orders.** No changes or substitutions shall be made in the purchase order without the prior written consent of Buyer. Buyer may make changes to the quantities, places and times of delivery or performance for a purchase order by submission of a written change order to Seller. If Seller reasonably believes that a change requested by Buyer affects the price of the Products and/or Services being purchased or Seller believes it will be unable to meet the revised delivery date for Products and/or Services, Seller shall notify Buyer in writing within three (3) business days after receipt of Buyer's change order, and Seller shall not perform the requested changes until the Buyer and Seller mutually finalize a change order in writing. If Seller does not notify Buyer in writing of Seller's objection within such three (3) day period, the change order shall be deemed accepted by Seller. Seller will not stop performance of any unaffected portion of the purchase order while Buyer and Seller are in the process of making any change order adjustments.

**5. Termination for Convenience.** Notwithstanding anything to the contrary, Buyer reserves the right to terminate the purchase order or any part of it for Buyer's sole convenience at any time upon written notice to Seller, in which case (a) Seller shall immediately stop all performance under the purchase order; and (b) Seller shall invoice Buyer for Products shipped to Buyer and/or Services performed prior to the termination date. No other amounts shall be payable as a result of such termination for convenience.

**6. Prices.** Prices for Products and/or Services shall be as set forth in Buyer's purchase order. The prices for Products and/or Services shown on the purchase order are all-inclusive, and no additional charge of any type (including, without limitation, shipping, packaging, labeling, custom duties, taxes, storage, travel expenses, materials or insurance) shall be added without Buyer's express written consent. C.O.D. shipments will not be accepted. Any cash discount period shall commence from the receipt of the Products or the invoice, whichever is later. Notwithstanding anything to the contrary, the price to be paid by Buyer for Products and/or Services under the purchase order shall not be greater than the price paid by Seller's similarly situated customers purchasing similar products or services in similar quantities.

**7. Taxes.** The price for Products and/or Services includes all amounts for occupation, sales, use, gross income, privilege, Value Added Tax, Goods & Services Tax, excise tax and any other tax, duty or assessment now or hereafter imposed by or under the authority of any international, federal, state or local law, rule or regulation with respect to the Products and/or Services or their sale. Seller agrees to indemnify and hold Buyer harmless from any such taxes, duties or assessments, including any applicable interest and penalties, for which Buyer may become liable.

**8. Certificate of Resale.** If Buyer has marked the space labeled "TAXABLE" as "NO" on the face of the purchase order, Buyer certifies that the tangible personal property Products being purchased are for resale and not for consumption. Buyer's applicable state sales and use tax numbers and other federal identification numbers can be found on Appendix A to these Terms and Conditions.

**9. Invoicing and Payment Terms.** The purchase order number and Seller's vendor number must appear on all invoices. Invoices must be sent no later than one (1) day following shipment of Products and/or no later than five (5) days following the end of each month during the performance of Services. Payment for Products shall be due thirty (30) days from the date of Buyer's receipt of a correct and complete invoice for all Products accepted by Buyer, except where different payment terms are stated on the face of the purchase order. Payment for Services shall be due thirty (30) days from the later of the date of Buyer's acceptance of the Services or Buyer's receipt of a correct and complete invoice for all Services accepted by Buyer, except where different payment terms are stated on the face of the purchase order.

**10. Shipping; Delivery; Risk of Loss.** All Products will be delivered **FOB DESTINATION**. Where applicable, Seller will use Buyer's designated freight carrier to be negotiated at the time the purchase order is signed or as otherwise specified in any applicable Contract. Seller retains ownership and the risk of loss with respect to all Products until actual delivery to Buyer's shipping location identified on the purchase order and final acceptance by Buyer of Products fully conforming to the purchase order. The purchase order number must appear on each package, packing slip and invoice. Packing slips must be included in all shipments and the final shipment slip must state: "ORDER COMPLETED." Any non-conforming deliveries may be rejected by Buyer and returned to Seller at Seller's expense. Local deliveries must be made to Buyer's receiving room, not to Buyer personnel or departments.

**11. Late Delivery/Performance. TIME IS OF THE ESSENCE.** It is a condition of Buyer's purchase order that deliveries and/or performance of Services conform to the schedule set forth in such purchase order. Seller shall promptly notify Buyer of any actual or anticipated delays in delivery and/or performance and shall, at Seller's expense, take all reasonable steps to avoid or end such delays, including the use of expedited shipping or additional personnel. If Seller fails to deliver all or any portion of Products and/or perform all or any portion of Services on or before the promised delivery date, in addition to all other remedies available under the Uniform Commercial Code and/or other applicable law, Buyer may (a) cancel the purchase order without liability to Buyer for any Products not yet delivered and/or Services not yet performed; (b) reject any Products and/or Services that arrive after the delivery date indicated in the purchase order; and (c) return such Products at Seller's expense. In addition, Seller agrees to indemnify and hold Buyer harmless from any losses, penalties, damages, liabilities and obligations, including, without limitation, the cost of cover to obtain replacement goods and/or substitute services and any other costs, expenses and attorneys' fees, arising out of or relating to

Seller's failure to deliver Products and/or perform Services in accordance with the schedule set forth in the purchase order.

12. **Warranties.** Seller expressly warrants that all Products (a) will conform to Buyer's specifications and will be of equal or better quality than all samples of Products delivered to Buyer; (b) will be new and not used, will not be remanufactured, reconditioned or refurbished; (c) will be delivered free and clear of all liens, encumbrances and claims of any third party; (d) will be free from all defects, whether patent or latent, in design, material or workmanship; (e) will conform to any statements made on the containers, labels or advertisements for such Products; (f) will be merchantable; (g) will not (and their normal use or resale will not) infringe any patent, trademark, copyright, trade name, trade dress, trade secret or any other proprietary or contractual right of any third party now or hereafter existing under the laws of the United States or any foreign country or jurisdiction, and all royalties owed by Seller to any third party licensor in connection with the Products will have been fully and promptly paid; (h) will be fit, sufficient and safe for the particular purposes for which the Products are intended; and (i) will be manufactured, processed, assembled, packaged, labeled, shipped and delivered in accordance with, and will not in any way violate, any applicable laws, ordinances, statutes, rules or regulations of the United States or any foreign, state or local government or any subdivision or agency thereof, including but not limited to, any laws and regulations relating to health, safety, environment, employment and labor, and including any such laws and regulations with respect to wages, working hours, working and living conditions, discrimination in hiring and employment practices. Seller expressly warrants that (a) all Services performed under this purchase order will commence with promptness and diligence, will be performed in a professional workmanlike manner and will conform to Buyer's specifications; (b) any resulting deliverables will be free from all defects, whether patent or latent, in design, material or workmanship and will conform to the written description contained in the purchase order; (c) acceptance or use of the Services by Buyer will not infringe any patent, trademark, copyright, trade name, trade dress, trade secret or any other proprietary or contractual right of any third party now or hereafter existing under the laws of the United States or any foreign country or jurisdiction, and all royalties owed by Seller to any third party licensor in connection with the Services will have been fully and promptly paid; (d) the Services will be performed in accordance with, and will not in any way violate, any applicable laws, ordinances, statutes, rules or regulations of the United States or any foreign, state or local government or any subdivision or agency thereof, including but not limited to, any laws and regulations relating to health, safety, environment, employment and labor, and including any such laws and regulations with respect to wages, working hours, working and living conditions, discrimination in hiring and employment practices; (e) the Products and Services are consistent with, and can be used in compliance with, the Occupational Safety and Health Act of 1970 ("OSHA") and any Services performed on Buyer's premises will be consistent with OSHA provisions; and (f) Seller will provide Buyer with the latest material safety data sheets for any chemical substance determined to be hazardous and used in connection with the Products or Services. In addition to the warranties set forth in this Section 12, all other representations, warranties and guarantees provided or implied by law, including but not limited to all warranties provided by the Uniform Commercial Code, are specifically incorporated herein. All warranties shall survive inspection, test, acceptance and payment.

13. **Inspection.** Buyer may inspect Products after they are received at the destination specified in the purchase order. Buyer shall be allowed to use statistical sampling techniques and shall be under no obligation to inspect all items contained in a shipment. No provision in Seller's delivery or other receipt shall modify Buyer's right to inspect and reject Products. Neither Buyer's inspection of nor failure to inspect Products nor payment for Products shall be deemed an acceptance of Products and shall in no way limit Buyer's right to reject nonconforming or defective Products. If inspection discloses that a portion of the Products received are non-conforming, Buyer may cancel any unshipped portion of the order.

14. **Rejection.** Buyer may reject Products that do not conform to warranties or specifications or which are otherwise defective and Buyer shall have no liability for return of Products that it so rejects, provided that there is reasonable evidence to believe the Product is nonconforming or defective. Buyer will hold rejected Products for Seller's inspection at Seller's risk. If Seller so directs, Buyer will return such rejected Products at Seller's expense (including transportation charges both ways). If Buyer rejects Products or revokes acceptance of Products, and Seller does not

deliver conforming Products on or before the delivery date specified in the purchase order, Buyer may cancel the purchase order without liability to Buyer. In addition, Seller shall indemnify Buyer pursuant to the terms of Section 11 above for any resulting late delivery. Seller will give Buyer a full refund for rejected Products, including the cost of transportation.

15. **Record Retention.** Seller shall maintain appropriate records regarding Product origin, testing, evaluation and quality and environmental compliance and shall, upon request from Buyer, promptly provide such records to Buyer for review.

16. **Insurance.** During the performance of the purchase order, Seller shall (a) maintain in effect insurance coverages of such types and in such amounts as are acceptable to Buyer in Buyer's sole discretion; and (b) prior to the commencement of the performance of the purchase order, provide Buyer with a certificate of insurance evidencing all such coverages and fulfilling the additional insured requirements set forth below.:

The insurance policies required under this section, except for any Worker's Compensation, shall be endorsed to name Buyer and its directors, officers, employees, agents and representatives (the "Additional Insured Persons") as additional insureds, or provide blanket additional insured status that covers the Additional Insured Persons as additional insureds. All additional insured certificates must contain a statement requiring the insurer to provide Buyer with at least thirty (30) days advance notice of any modification, cancellation or non-renewal of any policy. All insurers must have a minimum A. M. Best rating of A-VII and be either licensed or authorized to do business in the state(s) where the purchase order is being performed. If Seller is self-insured, it must have the Department or Commission having appropriate jurisdiction in the state in which the purchase order is to be performed furnish Buyer with a certificate evidencing such self-insurance.

17. **Waiver of Subrogation.** Each party waives (for itself and its insurance carrier) all its rights of subrogation against the other party and the other party's employees, agents, suppliers and permitted subcontractors to recover damages and losses to the extent such damages or losses are covered by insurance; provided, however, that this provision will have no effect to the extent that it invalidates or otherwise limits the insurance coverage of a party.

18. **Events of Default.** If Seller breaches the purchase order (including the incorporated Terms and Conditions) and does not cure the default within ten (10) days after written notice from Buyer of such breach, or if Seller files (or has filed against it) a petition in bankruptcy or seeks relief under any bankruptcy, reorganization, insolvency, dissolution, liquidation or similar law of any jurisdiction, becomes unable to pay or suspends payment of its debts as they become due, ceases operation of its business or becomes financially insecure, or if a court issues an order appointing a receiver, custodian or administrator over all or part of Seller's assets (the "Events of Default"), Buyer shall have the right to the remedies set forth in Section 19. In addition, Buyer shall be entitled to set off all amounts Seller owes Buyer (whether under the purchase order or otherwise) against any amounts Buyer owes Seller.

19. **Remedies.** If an Event of Default occurs, Buyer shall be entitled to any one or more of the following remedies, exercised by Buyer in Buyer's sole discretion: (a) cancellation of all or any part of any undelivered order, including but not limited to, the balance of any remaining installments on an approved multiple-shipment order; (b) rejection (or revocation of acceptance) of all or any part of any delivered shipment, with return of any such rejected Products at Seller's risk and expense; (c) replacement of any rejected Products with new Products that conform to the descriptions or specifications approved by Buyer, and all other warranties contained in Section 12, delivered to the same ultimate destination as that of the original shipment; (d) re-performance of any rejected Service or deliverable to conform to the descriptions or specifications approved by Buyer, and all other warranties contained in Section 12; a full refund or credit of the price actually paid for any such non-conforming Products and/or Services in lieu of replacement or re-performance; (e) recovery and reimbursement of any damages, costs (including but not limited to the cost of cover) and expenses incurred as a result of Seller's breach or default, whether direct, indirect, incidental, or consequential in nature; (f) all other remedies provided for in the purchase order; and (g) all other remedies available under the Uniform Commercial Code and/or other applicable law (whether at law or in equity). In addition, Seller shall be responsible for any costs of removal and reinstallation, transportation, charges (both ways)

customs, duties, broker's fees and similar charges relating to rejected Products.

**20. Limitation of Liability.** Notwithstanding anything to the contrary: (a) Buyer's liability relating to any claim of any kind for any loss or damage arising out of or in connection with or resulting from the purchase order, or from the performance or breach thereof, shall not exceed the price allocable to the Products and/or Services or any portion thereof which gives rise to the claim; and (b) Buyer shall not be liable for any other damage or loss, including, but not limited to, lost profits, lost sales, cost of capital, cost of down time or any other special, incidental or consequential damages in connection with the purchase order.

**21. Indemnity.** Seller agrees to indemnify and hold harmless Buyer, its officers, directors, agents, subsidiaries, affiliates, successors and assigns, against any and all claims, demands, suits, actions, losses, damages, liabilities and obligations, whether direct, indirect, incidental, consequential, special or punitive (including, without limitation, costs, expenses and attorneys' fees), arising out of or relating to: (i) any claim that any Products or Services or the sale or use of any Products and/or Services constitutes a violation or infringement of any patent, copyright, trademark, trade name, trade dress, trade secret, service mark or of any other contractual, intellectual, proprietary or third party right; (ii) any claim that Products and/or Services are defective; (iii) any breach by Seller of any covenant or warranty contained in the purchase order; (iv) the manufacture, use, sale, delivery or disposal of Products; (v) any property damage, personal injury or illness resulting from the manufacture, sale, use of or contact with any Product or performance of any Service; or (vi) Seller's negligent acts or omissions in connection with the creation or delivery of any Products or performance of any Service. In addition to the indemnification obligations, for any claim arising under subsection 22(i), Seller may obtain for Buyer the royalty-free unlimited right to continue using Products and/or Services in the manner that such Products and/or Services could have been used absent such claim, or to modify or replace Products and/or re-perform the Services in a manner acceptable to Buyer in Buyer's sole discretion.

**22. Compliance with Buyer's Policies and Procedures.** Seller's employees and agents shall, if on Buyer's premises, comply with all facility rules and regulations in effect at such premises, including security requirements. In addition, Seller shall comply with such Buyer policies or procedures as Buyer may reasonably require from time to time, provided that (i) Buyer has provided Seller a written copy of, or notice of online access to, any such additional policy or procedure, and (ii) such policies or procedures do not conflict with these Terms and Conditions. Seller acknowledges that it has access to a copy of Buyer's Business Associate Code of Conduct, and Seller agrees that it and its employees, agents, suppliers and subcontractors will conduct themselves in compliance at all times with all applicable provisions thereof.

**23. Compliance with Laws.** Seller will comply with all applicable international, federal, state or local laws, rules and regulations affecting the manufacture and sale of the Products.

**24. Confidential Information.** Seller shall consider and treat all information furnished by Buyer in connection with this purchase order to be confidential and proprietary and shall not disclose to any third party any such confidential or proprietary information of Buyer, including, without limitation, the sale of Products to Buyer, the terms of the purchase order relating to the Products. Seller will not use Buyer's confidential or proprietary information except to fulfill Seller's obligation to provide Products and/or Services to Buyer. In addition, Seller will not use any of Buyer's trade marks, service marks, trade names or other proprietary information without the express written consent of Buyer. Any written granting of permission by Buyer to Seller to publicize the transaction described in this purchase order in one instance shall not act to grant permission for Seller to advertise or publicize its relations with Buyer in any other instance. No information disclosed by Seller in connection with the purchase order shall be deemed to be confidential or proprietary information of Seller unless otherwise agreed in writing by Buyer. All such information shall be acquired by Buyer free of any restrictions (other than any patent rights of Seller) as an integral part of Seller's supply of Products.

**25. No Partnership or Joint Venture.** The parties agree that Seller is an independent contractor, and nothing in the purchase order will create any agency, employment, partnership, joint venture or fiduciary relationship between Buyer and Seller.

**26. Assignment.** These Terms and Conditions are binding upon, and inure to the benefit of Buyer, Seller and their successors and permitted assigns. Seller may not assign, delegate or subcontract its obligations under the purchase order, in whole or in part, without Buyer's prior written consent. Any purported assignment, delegation or subcontract made without Buyer's consent shall be void. In no event shall any transfer, assignment or subcontract relieve Seller of any liability under the purchase order.

**27. Waiver; Severability.** Buyer's waiver of any breach of any provision contained in these purchase order will not waive any other breach by Seller. Buyer's delay or failure to enforce its rights under the purchase order shall not be deemed a waiver of such rights. The invalidity of any portion of the purchase order shall not invalidate any other portion of these purchase order, and, except for such invalid portion, the purchase order shall remain in full force and effect. If for any reason, any portion of the purchase order is illegal or unenforceable, such provision will be severed and the remainder of the purchase order shall be interpreted in a manner that will not affect the enforcement of the remaining provisions.

**28. Survival.** Any section which by the nature of its terms should extend beyond the termination or expiration of the purchase order for any reason shall survive such termination or expiration.

**29. Governing Law; Venue; Limitation of Actions.** To the extent not inconsistent with these Terms and Conditions, the purchase order shall be governed by the Uniform Commercial Code as adopted in the State of Illinois and shall otherwise be governed by the internal laws and judicial decisions of the State of Illinois, without regard to conflict of laws principles. The United Nations Convention on Contracts for the International Sale of Goods will not apply. All shipping and delivery terms specified herein will have the definitions set forth in the Incoterms 2000 published by the International Chamber of Commerce. **SELLER HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE COURT LOCATED WITHIN DUPAGE COUNTY, ILLINOIS OR ANY FEDERAL COURT LOCATED IN THE NORTHERN DISTRICT OF ILLINOIS AND CONSENTS THAT ALL SERVICE OF PROCESS BE MADE BY REGISTERED OR CERTIFIED MAIL DIRECTED TO IT AT ITS ADDRESS SET FORTH ON THE PURCHASE ORDER. NOTHING IN THIS AGREEMENT AFFECTS THE RIGHT OF BUYER TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING ANY ACTION OR PROCEEDING AGAINST SELLER IN THE COURTS OF ANY OTHER JURISDICTION THAT HAS JURISDICTION OVER SELLER. TO THE EXTENT PERMITTED BY LAW, SELLER WAIVES TRIAL BY JURY AND WAIVES ANY OBJECTION THAT IT MAY HAVE BASED ON LACK OF JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS TO THE CONDUCT OF ANY PROCEEDING ARISING OUT OF OR IN CONNECTION WITH THE PURCHASE ORDER.**

**Appendix A**

**FEDERAL IDENTIFICATION NUMBERS, STATE TAX EXEMPTION NUMBERS AND STATE RESALE NUMBERS**

**FEIN NUMBERS**

DeVry Inc.	36-3150143
Advanced Academics, Inc.	73-1586064
DeVry University, Inc.	36-2781982
DeVry Canada LLC	20-3816567
Ross Health Sciences Inc.	13-3979959
Dominica Services, Inc.	20-1504255
Ross University Services Inc.	13-4151727
Ross University School of Medicine	13-3037825
Ross University School of Veterinary Medicine	98-0559844
Chamberlain College of Nursing & Health Sciences, Inc.	20-2452330
Chamberlain College of Nursing LLC	20-2452410
DeVry/New York Inc.	36-4213626
Becker Professional Development Corporation	36-4085841
U.S. Education Corporation d/b/a Carrington Colleges Group, Inc.	33-0819656
Apollo College, Inc. d/b/a Carrington College	86-0498134
American Institute of Health Technology	20-0251168
EDCOA, Inc. d/b/a Carrington College California	94-3166490

**STATE EXEMPTION NUMBERS**

DeVry Inc.	(Illinois tax exemption identification number E9987-9921-05)
DeVry University, Inc.	(Illinois tax exemption identification number E9990-2745-06)
DeVry University, Inc.	(Georgia tax exempt authorization letter on file at corporate headquarters)
Chamberlain College of Nursing LLC	(Illinois tax exemption identification number E9931-1046-01)

**STATE RESALE NUMBERS**

None.