

Confidentiality Agreement

THIS AGREEMENT made the [] 2004.

BETWEEN:

JJJJJJJ (*please fill in correct details*) a limited liability company incorporated in the Republic of Kenya whose postal address is P.O. Box [] (the “ **Company**” which expression shall where the context so admits include its successors and assigns) **AND**

() **LIMITED** a limited liability company incorporated in the Republic of Kenya whose postal address is P.O. Box [] (*or the name of individual(s)*) (the “ **Prospective Purchaser**” which expression shall include its successors and assigns).

WHEREAS

(A) The Company is the Owner of **DDHGSSDGSH** situate at (*please fill incorrect details*) which carries on the business of secondary education (*please fill in any other details*);

(B) The Prospective Purchaser is interested in receiving certain information concerning the Company with a view making an offer to acquire the whole of the issued share capital of the Company;

(C) To enable the Prospective Purchaser to evaluate the Company, the Company is willing to disclose information relating to it to the Prospective Purchaser under conditions of confidentiality.

IT IS AGREED as follows:

Confidential Information

For the purposes of this Confidentiality Agreement the Confidential Information shall include:

- (a) information of whatever nature relating to the Company which is obtained by the Prospective Purchaser, its officers, employees, agents or advisers in written, pictorial or oral form from or pursuant to discussions with any of the officers, employees, agents or advisers of the Company;
- (b) information of whatever nature relating to the business of the Company obtained by observation during visits to its premises;
- (c) analyses, compilations, studies and other documents prepared by the Prospective Purchaser, its officers, employees, agents or advisers which contain or otherwise reflect or are generated from the information specified in paragraphs (a) or (b) above; and
- (d) this Agreement and the fact that discussions or negotiations are taking, or have taken place between the Parties or any of the terms, conditions or other facts with respect to any offer or transaction in respect of the Company.

Exclusions

It is understood that the following obligations shall not apply to Confidential Information or such of it which:

- (a) at the time of disclosure is within the public domain; or
- (b) after disclosure comes into the public domain, other than by reason of breach of any of the undertakings below; or
- (c) is already lawfully in the Prospective Purchaser's or its advisers' possession (as can be demonstrated by written records or other reasonable evidence) provided that the source of such information was not subject to any agreement or other duties relating to confidentiality; or
- (d) becomes lawfully available to the Prospective Purchaser or its advisers (as can be demonstrated by written records or other reasonable evidence), other than through the Company or the Company's officers, employees, agents or advisers or by visits to the premises of the Company, provided that the source of such information is not then subject to any agreement or other duties relating to confidentiality.

Undertakings

In consideration of Confidential Information being made available to the Prospective Purchaser by the Company, the Prospective Purchaser undertakes to the Company that:

- (a) the Prospective Purchaser will use the Confidential Information exclusively for the purpose of evaluating the Company with a view to deciding whether or not to make an offer to acquire the Company and not for any other purpose and will not permit or assist a third party to make use of Confidential Information for any other purpose;
- (b) the Prospective Purchaser will treat and safeguard as private and confidential all the Confidential Information received or held by it at any time;
- (c) the Prospective Purchaser will not at any time use Confidential Information, or permit or assist a third party to use Confidential Information, to attract employees or customers or students away from the Company or to procure a commercial advantage over the Company or in any way which is likely to be directly or indirectly detrimental to the Company or its business;
- (d) except as may be required by law, the Prospective Purchaser will not, whether or not the negotiations proceed, at any time without the prior written consent of the Company disclose or reveal, or solicit the disclosure of, any Confidential Information, whether directly or indirectly, to any person other than:
 - (i) to its officers and senior employees who are directly concerned with your evaluation of the Company and are required in the course of their duties to receive and consider it for the purpose of evaluating the Company and who shall first be informed of and be required to adhere to the terms of this Agreement as if they were a party to this Agreement. It shall inform the Company in writing of the identity of all such persons and procure that each of them executes written undertakings as to confidentiality in the form approved by the Company; or
 - (ii) in strict confidence, to its advisers or any bank or other financial institution from whom it may seek finance for the acquisition of the Company and who will be directed to maintain the confidentiality of such information in accordance with this Agreement;

(e) the Prospective Purchaser will not make any copies or reproduce any documents or extracts of documents containing Confidential Information or in any other way duplicate Confidential Information, except for the purpose of evaluating the possible acquisition of the Company and, in all such cases, it will operate procedures to control the copying and distribution of the Confidential Information in accordance with this paragraph 3;

(f) the Prospective Purchaser will keep the Confidential Information separate from all other documents and information it may hold;

(g) except as permitted by paragraph (d)(i) above, the prospective Purchaser will not at any time without the prior written consent of the Company discuss with the employees, agents, customers, students, their parents or suppliers of the Company the Confidential Information or any other matter in connection with the discussions or negotiations that are taking place;

(h) otherwise than in accordance with the regulations of The Mergers and Monopolies Panel or other regulatory requirements or except with the prior approval of the Company, the Prospective Purchaser will not make or permit or procure to be made or solicit or assist any other person to make any announcement or disclosure of the proposed offer to acquire the Company;

(i) in connection with the possible acquisition of the Company, the Prospective Purchaser will make contact only with those officers or employees of the Company as the Company may nominate from time to time and not with any other person including, but not limited to shareholders, officers, employees, agents or advisers of the Company;

(j) the Prospective Purchaser will ensure that proper and secure storage is provided for the Confidential Information and will keep a record of the Confidential Information provided to it or its advisers and of the location of the Confidential Information and of any persons holding it;

(l) the Prospective Purchaser will procure that its subsidiaries, officers, employees, agents and advisers and the officers, employees, agents and advisers of its subsidiaries strictly observe the terms of this Agreement and will be responsible for any breach of this Agreement by any of them and shall indemnify the Company in respect of all damage (including but not limited to legal costs) which may arise directly or indirectly from the unauthorised disclosure of Confidential Information.

Further undertakings

Either before or earlier upon written request from the Company the Prospective Purchaser will immediately return to the Company all documents and papers relating to the Company supplied by the Company or any of its officers, employees, agents or advisers together with any copies. The Prospective Purchaser will destroy any papers referred to in sub-paragraph 1(c) above together with any copies. The Prospective Purchaser will expunge all Confidential Information from any computer, word processor or other device containing it and will confirm compliance with the above in writing to the Company.

Legal requirement to disclose

In the event that the Prospective Purchase, its officers, employees, agents or advisers or anyone to whom they transmit any Confidential Information becomes (or is reasonably likely to become) legally required to disclose any Confidential Information, prompt notice shall be given to the Company at the above address so that the Company may seek an appropriate remedy to prevent disclosure or waive compliance with the provisions of this Agreement preventing disclosure. The Prospective Purchaser will fully cooperate with the Company in the event that the Company elects to challenge the validity of such requirements.

If the Prospective Purchaser, its officers, employees, agents or advisers or anyone to whom they transmit any Confidential Information becomes legally required to disclose any Confidential Information, they will be entitled to do so only to the extent so required and subject to prior consultation with the Company with a view to agreeing the timing and content of the disclosure.

No representations or warranties

The Confidential Information made available to the Prospective Purchaser, its officers, employees, agents or advisers has not and will not have been independently verified and the Prospective Purchaser will be solely responsible for making its own judgment and decisions on all Confidential Information.

Neither the Company nor any of its respective shareholders, officers, employees, agents or advisers makes any representation or warranty (express or implied) as to the accuracy or completeness of the Confidential Information or as to the reasonableness of any assumptions which may be contained in it. If the Prospective Purchaser subsequently decides to acquire the Company it acknowledges that it will not have relied on nor been induced to acquire by any representation or warranty contained in any Confidential Information save as expressly incorporated into the written acquisition agreement.

Neither the Company nor any of its respective subsidiaries, shareholders, officers, employees, agents or advisers will have any liability to the Prospective Purchaser or any of its representatives resulting from the use of the Confidential Information.

Cessation of obligations

If the Prospective Purchaser subsequently agrees to acquire the Company all the Prospective Purchasers obligations contained in this Agreement shall cease upon completion of the acquisition agreement and payment of all monies to the Company.

No waiver

Any failure or delay by the Company in exercising any right, power or privilege contained in this Agreement will not act as a waiver nor will any single or partial exercise preclude any further exercise.

Breach of this Agreement

The Prospective Purchaser accepts that the Company shall be entitled to injunctive relief in any court of competent jurisdiction restraining the prospective Purchaser from committing a breach of the terms of this

Agreement or continuing to disclose any Confidential Information to any person. The Prospective Purchaser will reimburse the Company for any costs, claims, demands or liabilities of whatsoever nature arising directly or indirectly out of a breach or threatened breach of the Prospective Purchaser's obligations under this Agreement. Nothing contained in this Agreement shall be construed as prohibiting the Company from pursuing any other remedies available to it, either at law or in equity, for such breach or threatened breach including specific performance and recovery of monetary damages.

Capacity

The prospective Purchaser confirms that it is acting in relation to the possible acquisition of the Company as principal, and not as agent or broker for or in concert with any other person.

No assignment

This Agreement is limited to the Prospective Purchaser and may not be assigned.

Governing Law

This Agreement shall be governed by and construed in accordance with Kenyan Law and the Kenyan Courts shall have jurisdiction.

IN WITNESS WHEREOF the parties hereto have hereunto executed this Agreement the day and year first hereinbefore written;

SIGNED by)
For and on behalf of)
AAAAA **LIMITED** in the)
Presence of:

SIGNED by)
For and on behalf of)
() **LIMITED** in the)
Presence of :

DRAWN BY: