

## TRADEMARK COEXISTENCE AGREEMENT

THIS AGREEMENT (this "Agreement"), dated as of 8/6, 2012, is by and between Delta Career Education Corporation, having its principal place of business at 4525 Columbus Street, Suite 101, Virginia Beach, Virginia 23462 ("Delta") and Team U, having a place of business at 1793 East 5<sup>th</sup> Street, Brooklyn, New York 11223 ("Team U").

### RECITALS

A. Delta contends that it is the owner of a Trademark known as Team U which is dedicated to and furtherance of the educational services of Delta.

B. Delta contends that it has adopted, presently uses and has acquired common law rights in the Mark Team U ("Mark") in word and design form and is the owner of a pending federal trademark registration application (a copy of which is attached hereto as Exhibit A) with the serial number 85-509-240 filed with the United States Patent and Trademark Office ("USPTO") on January 5, 2012.

C. Team U contends that it presently uses and has acquired common law rights in the Mark as a result of the use of the Mark in commerce to promote its primary purpose of fundraising and promoting healthy lifestyles through several methods including, but not limited to, organizing running marathon events to raise funds for specific charities.

D. Team U has filed a request for an extension of time to oppose the registration of the Mark in the USPTO by Delta.

E. The parties and their representatives have held discussions regarding their current and future (i) use, (ii) marketing, and (iii) distribution plans relating to their respective trademarks and have concluded that there is no likelihood of confusion between their respective uses and registrations of the Mark and Delta consents subject to the limitations set forth in this Agreement to the use of the Mark by Team U.

**NOW THEREFORE**, for and in consideration of the foregoing and the mutual representations, promises, terms, and conditions contained herein, each and for themselves, collectively and individually, the parties agree as follows:

1. **No Likelihood of Confusion.** Provided that each party abides by the representations, promises, terms and conditions contained in this Agreement, the parties acknowledge and state that to their respective best knowledge and belief there is no likelihood of confusion arising as a result of Delta's use of the Mark and Team U's use of the Mark particularly in view of the differences in their respective fields of use.

**2. Restrictions on Use of the Mark by Team U.** Team U agree to the following restrictions on its use of the Mark:

Team U shall not use the Mark in connection with any of the items in the class of listed goods or services outlined in the trademark registration application, Serial No. 85509240, filed by Delta with the USPTO. Notwithstanding the descriptions contained in the pending trademark registration application, Team U shall only use the Mark to promote its primary purpose of **fundraising and promoting healthy lifestyles through several methods including, but not limited to, organizing running marathon events to raise funds for specific charities.**

**3. Restrictions on Use of the Mark by Delta.** Delta agrees to the following restrictions on its use of the Mark:

Delta will only use the Mark in connection with educational services, namely, career training via two-year college and vocational instruction and education via classes, seminars, and workshops in the fields of business, legal, medical and dental, information technology as outlined in the trademark registration application, Serial No. 85509240, filed with the USPTO.

**4. No Confusing Use.** The parties shall not intentionally use the Mark or promote their goods and/or services in connection with the Mark in a manner that is likely to cause confusion. Neither party will suggest to any third party that an affiliation exists between itself and the other party or the other party's goods or services.

**5. Mutual Consent to Use and Register.** Delta consents to Team U's use of the Mark pursuant to the representations, promises, terms, and conditions contained in this Agreement, and Team U consents to Delta's registration of the Mark pursuant to the representations, promises, terms, and conditions contained in this Agreement including, without limitation, in Delta's pending trademark application, Serial No. 85509240. Delta further consents to the filing of an application by Team U for recognition as a tax exempt not for Profit Corporation with the appropriate governmental agencies. Team U also consents to Delta's use of the Mark pursuant to the representations, promises, terms, and conditions contained in this Agreement. Conditioned on the other party's compliance with the representations, promises, terms, and conditions of this Agreement, neither party will sue or assert any cause of action, either directly or indirectly, against the other for infringement of the use of the Marks.

**6. Trademark Applications.** Team U shall not oppose, challenge, or otherwise contest any pending and/or subsequent application by Delta to register the Mark for use subject to the representations, promises, terms, and conditions contained in this Agreement.

**7. No Other Restrictions on Future Use.** The parties understand and agree that other than the restrictions on the use of the Mark detailed in this Agreement, neither party shall be otherwise be

restrained with respect to the use and/or registration of the Mark.

8. **Territorial Scope of the Agreement.** This Agreement shall be effective worldwide.

9. **No Inducement.** The parties hereto represent, warrant and agree that upon executing and entering into this Agreement, that they, and each of them, are not relying upon and have not relied upon any representation, promise, or statement made by anyone which is not recited, contained, or embodied in this Agreement.

10. **Binding Agreement on Others.** This agreement and all of its representations, promises, terms, and conditions will be binding upon and inure to the benefit of each of the parties hereto and its respective directors, officers, partners, proprietors, attorneys, agents, servants, employees, representatives, affiliates, subsidiaries, shareholders, predecessors, successors and assigns, and also extends to licensees and those using the Mark with the permission of the parties.

11. **Representation by Counsel.** Each of the parties hereto acknowledges that it has sought or had the opportunity to seek the representation of independent counsel with regard to this Agreement.

12. **Representations as to Authority.** Each party hereto represents and warrants that it has the sole right and exclusive authority to execute this Agreement and that it has not sold, assigned, transferred, conveyed, or otherwise disposed of any claim or demand, or any portion of or interest in any claim or demand, relating to any matter covered hereby.

13. **Breach or Default.** Nothing in this Agreement will be construed so as to impair any legal or equitable right of any party hereto to enforce any of the representations, promises, terms, and conditions of this Agreement by any means, including without limitation, an action for damages or a suit to obtain specific performance of any or all of the representations, promises, terms, or conditions of this Agreement. In the event of such action, the prevailing party shall be entitled to all costs of the action, including reasonable attorneys' fees, in addition to any other relief to which such party may be entitled. It is hereby expressly acknowledged by all parties to this Agreement that a breach hereof by any party will cause such immediate and irreparable injury that preliminary and permanent injunctive relief would be appropriate in the event of such breach.

14. **Headings.** The paragraph headings contained in this Agreement are provided for convenience only and shall not be considered in the interpretation and construction of this Agreement.

15. **Waiver.** The failure of either party at any time or times to demand strict performance by the other party of any of the representations, promises, terms, or conditions of this Agreement shall not be construed as a continuing waiver or relinquishment thereof and each may at any time demand strict and complete performance by the other of said representations, promises, terms, and conditions.

16. **Entire Agreement.** This Agreement constitute the entire agreement between the parties with

respect to the subject matter hereof and supersedes all prior negotiations and agreements, whether written or oral, relating to such subject matter. This Agreement may not be altered, amended, modified, or otherwise changed in any respect except by an instrument in writing duly executed by authorized representatives of each of the parties hereto.

17. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed as an original, but all of which together will constitute one and the same instrument for all purposes. This Agreement shall not be effective until executed by all parties hereto and shall then be effective as to all parties from and after the effective date first set forth above.

Delta Career Education Corporation

By: 

Title: General Counsel and Chief  
Administrative Officer

Date: 8/6/12

Team U

By: 

Title: Founder / CEO

Date: 7/25/12

EXHIBIT A  
[Trademark Registration Application]